

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

- - - - -X
UNITED STATES OF AMERICA, :
 :
Plaintiff, : Criminal No. 4:15-103
 :
vs. :
 :
JESSE R. BENTON, : TRANSCRIPT OF TRIAL
JOHN FREDERICK TATE, and : VOLUME VII
DIMITRIOS N. KESARI, :
 :
Defendants. :
- - - - -X

Second Floor Courtroom
United States Courthouse
123 East Walnut Street
Des Moines, Iowa 50309
Wednesday, May 4, 2016
8:28 a.m.

BEFORE: THE HONORABLE JOHN A. JARVEY, Chief Judge, and a Jury.

Terri L. Martin, CSR, RPR, CRR
United States Court Reporter
Room 189, U.S. Courthouse
123 East Walnut Street
Des Moines, Iowa 50309

APPEARANCES:

For the Plaintiff:

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1 P R O C E E D I N G S

2 (In open court, out of the presence of the jury.)

3 THE COURT: Please be seated.

4 There was a request again to take judicial notice of
5 the Code section in the FEC forms. It's not my practice to
6 comment on evidence, except if there's like a limiting
7 instruction. There is evidence in that form. The form is
8 evidence. You can say that that's what they're accused of, and
9 if I did comment on it to say whatever it is that we put in the
10 e-mail yesterday, I would also say the evidence also shows that
11 the defendant -- there is no evidence the defendant ever saw it.
12 So I just won't comment on that.

13 MR. PILGER: And I understand that ruling, I'm just
14 questioning it. We're not going there. So what we're going for
15 under the mandatory judicial notice is simply that the Federal
16 Election Campaign Act was previously codified in Title 2 and is
17 now renumbered. That is it.

18 THE COURT: What would they do with that?

19 MR. PILGER: It would eliminate any possibility of an
20 argument that what's on the form, at least as we're arguing for
21 materiality, not that the defendants saw it, that that doesn't
22 go to materiality.

23 THE COURT: Well, you can argue it goes to
24 materiality. There's no question about that.

25 MR. PILGER: But I think there's an issue that might

1 confuse the jury here, and all we're asking for, Your Honor, is
2 asking for anything that would go to the defendants haven't seen
3 it, we're not even asking to go to the section number that's in
4 the indictment; just a simple statement that the Title 2 Code
5 provisions have been renumbered.

6 THE COURT: What would they do with that? There would
7 be nothing that they could do with that because they don't know
8 what the new numbers are. They've never been told. So why
9 would you say the numbers have been changed? I mean, I agree
10 with you that it did happen, but what would a jury do with that
11 information when they don't know the new numbers?

12 MR. PILGER: I won't press the point, Your Honor. My
13 only point is it would avoid any confusion if they're looking at
14 the form and they've never seen this number before or since.

15 THE COURT: And they haven't seen any other number
16 associated with it either, so how could they be confused?

17 MR. PILGER: Your Honor, I won't press the point.

18 THE COURT: All right. Thanks.

19 Do I have a set of jury instructions, Kate?

20 THE CLERK: Not on the bench, but we can grab one.

21 THE COURT: Could you, please?

22 THE CLERK: Yes.

23 THE COURT: Because I need to read them right now.

24 THE CLERK: Elizabeth has them.

25 (Pause.)

1 (In open court, in the presence of the jury.)

2 THE COURT: Please be seated.

3 Members of the jury, good morning.

4 On your chair when you arrived in the courtroom is a
5 copy of the final instructions. Just like the preliminary
6 instructions, I would ask that you read them silently as I read
7 them aloud. There are nine instructions. I'm going to read
8 eight of them before we give closing arguments, we'll hear the
9 closing arguments, then I'll read the ninth one, then you'll
10 begin your deliberations.

11 Everyone have one on their chair?

12 (Jurors said no, just preliminaries.)

13 THE CLERK: Elizabeth has them.

14 THE COURT: Oh, okay. Sorry, I thought we had them.

15 THE CLERK: No.

16 THE COURT: They're coming; sorry.

17 (Pause.)

18 THE COURT: Okay. So if you would turn to page 1,
19 we'll begin.

20 (Instructions 1 through 8 were read by the court.)

21 THE COURT: Okay. So we're going to suspend the
22 reading of the instructions at No. 8 there. We'll read No. 9
23 after the closing arguments of the attorneys.

24 The closing arguments are not evidence. The evidence
25 is done, but it's an important part of the case. It's that

1 portion of the trial where the lawyers attempt to persuade you
2 that their client's position is the one that you should adopt in
3 your deliberations. The government goes first. It has the
4 burden of proof. The defendants will go second, and if the
5 government reserves some of its time, they'll be permitted to
6 make a rebuttal argument so that each side can respond to each
7 other's arguments.

8 Mr. Cooney, you may make the government's closing
9 argument.

10 MR. COONEY: Thank you, Your Honor.

11 May I have just a moment to get this set up?

12 THE COURT: Take your time.

13 MR. COONEY: Thank you.

14 Ms. Walling, could you -- thank you. This case is all
15 about a coverup. It's about these three defendants, Jesse
16 Benton, Dimitri Kesari and John Tate, along with Kent Sorenson,
17 agreeing to cover up the Ron Paul Campaign's payments to Kent
18 Sorenson in return for his endorsement. The Ron Paul Campaign
19 paid \$73,000, \$73,000 to Kent Sorenson for his endorsement. And
20 if anyone ever found out about it, it would ruin the careers and
21 the reputations of these professional political operatives, and
22 it would ruin Ron Paul's run for the presidency. And so these
23 three defendants agreed to keep them a secret, to hide them from
24 voters in Iowa and to hide them from the Federal Election
25 Commission.

1 They agreed to do that by creating false invoices, by
2 approving false invoices, by sending those invoices to
3 unsuspecting members of the Ron Paul Campaign in Texas, who
4 using those invoices created false records that went in the
5 campaign's books, and by using those false records to report the
6 payments to the FEC falsely, not as payments to Kent Sorenson
7 for an endorsement but as payments to ICT for audiovisual
8 services.

9 Now, Judge Jarvey just explained to you the law of
10 this case. He read to you the elements that the government must
11 prove to find the defendants guilty of the crimes that they're
12 charged with.

13 What you'll find when you go back to deliberate and
14 when you look at those elements and what I argue to you now is
15 that this case really boils down to just two questions. The
16 first question is whether this, this FEC report and the other
17 FEC reports that you saw, is false and assuredly it is. These
18 FEC reports say that the Ron Paul Campaign paid ICT for
19 audiovisual services. That is false. That is a lie. These
20 were payments to Kent Sorenson for his endorsement. ICT did no
21 work for the Ron Paul Campaign. Kent Sorenson did no work for
22 ICT. These are false.

23 And the second question that this case boils down to
24 is whether these three men, these defendants, caused them to be
25 false. And assuredly they did by creating false invoices, by

1 approving false invoices, by sending them to the unsuspecting
2 members of the campaign in Texas who created false records in
3 the campaign's books and reported the payments to Kent Sorenson
4 as payments to ICT for audiovisual services to cover up the
5 payments, to protect these three defendants, to keep the
6 payments to Kent Sorenson a secret forever.

7 Let's talk about the coverup. Remember, one of the
8 first documents that was admitted into evidence in this case was
9 a June 15, 2011, e-mail exchange between the defendants where
10 Dimitri Kesari lets John Tate and Jesse Benton know that there's
11 a possibility that Kent Sorenson, the State Chair for Michelle
12 Bachmann, might switch. What does John Tate write back: "Why
13 would he switch? Are you sure about this? Let's talk
14 tomorrow."

15 Why would he switch? Why would an Iowa State Senator
16 who's the State Chair of a presidential campaign, the chief
17 rival to Ron Paul, why would he switch? For money.

18 One thing you know in this case from all of these
19 e-mails and all the testimony is that these three defendants
20 wanted Ron Paul -- excuse me, wanted Kent Sorenson's endorsement
21 and they were willing to pay for it. And you know that going
22 back to Halloween of 2011 where Jesse Benton, copying John Tate,
23 wrote Kent Sorenson directly and said, happy to employ you at
24 fair market value, 8,000 a month.

25 And that \$8,000 figure is so important, ladies and

1 gentlemen, because as you know from the invoices that you saw in
2 January, February, March, April, May, June, all after the Iowa
3 caucuses, by the way, that Kent Sorenson was being paid \$8,000 a
4 month by the Ron Paul Campaign, exactly what Jesse Benton wrote
5 to Kent Sorenson on Halloween of 2011. They wanted his
6 endorsement and they were willing to pay for it.

7 Now, you know what happens next from both the e-mails
8 and the testimony, right? Between October and December the
9 campaign puts the hard sell on Kent Sorenson, and it's Dimitri
10 Kesari who's his main point of contact, going to him and staying
11 in touch, and looking for direction from John Tate and Jesse
12 Benton. And I'm not going to show you all of those e-mails in
13 between, but this one right here tells you a lot about what was
14 going on.

15 First of all, Dimitri Kesari writes November 15, 2011,
16 "Am I free to meet him and his wife?"

17 What is Dimitri Kesari doing asking for permission
18 from Jesse Benton and John Tate to meet with Kent Sorenson, a
19 person who he considered a friend dating back to 2008 according
20 to the evidence in this case? Dimitri Kesari is not a solo
21 operator. Dimitri Kesari works under the direction of Jesse
22 Benton and John Tate. Benton says: yes, go meet with them.
23 Tate: We need to be very careful, we need to be very careful.

24 When you look at those e-mails back in the jury room
25 from during this time period, one thing you'll see that even

1 before the Bachmann allegation, even before the dustup that
2 caused them to have to forever cover up the Sorenson payments,
3 this is something they wanted to keep secret. In a political
4 campaign you don't go out there and start talking about paying a
5 state senator to jump ship to your campaign.

6 Something else you know about John Tate right here in
7 this time period, about a week later: "Seems to me, next step
8 is to make him an offer (in person, not in writing) and give him
9 a firm but polite deadline."

10 John Tate is engaged. He's giving Dimitri Kesari
11 direction. But also what do you know about John Tate that you
12 see in e-mails that follow this, too? And it starts right here,
13 "(in person, not in writing)." John Tate knows that this needs
14 to be kept a secret, and John Tate is not the type of guy who's
15 looking to leave a paper trail.

16 And we move forward to December. Again, they wanted
17 the endorsement. They were willing to pay for it.

18 "Stick a fork in Michelle by the way," Jesse Benton
19 writes. "Sorenson is endorsing Ron on Monday."

20 This is big. Remember Ron Paul lost the Iowa --
21 excuse me, the Ames Straw Poll. To who? To Michelle Bachmann.
22 That's why they wanted this endorsement. And Kent Sorenson was
23 going to change the tide for them. Stick a fork in Michelle.
24 Sorenson is endorsing Ron on Monday.

25 Now, you know what happens after that e-mail. There's

1 a few days that go by between December 23 and December 26 where
2 they're working on a press release. They're trying to finalize
3 this deal. And, in fact, if you remember, Christmas Day, the
4 December 25, 2011, we didn't look at the e-mails. We introduced
5 all of them, Government's Exhibits 105 to 132 if you want to
6 look at them. How important was this endorsement to these
7 defendants? Christmas Day, a week out from the Iowa caucuses,
8 what are these defendants doing? Christmas Day, the day to
9 spend time with the family, a day to reflect back on the year.
10 Now, the caucus is a week away, so they may be working, but what
11 are they working on? They're working on the Kent Sorenson
12 endorsement. That's how important this is.

13 Do you remember Tonya Hester testified in this case
14 that she looked at the number of e-mails that Jesse Benton sent
15 and received, just a total number of e-mails on those dates in
16 December, and she described Christmas Day was a light day, he
17 only got about a hundred e-mails that day. Well, you can look
18 at Government's 105 to 132. At least about 28 of them had to do
19 with Kent Sorenson and the endorsement. That's what Jesse
20 Benton was working on Christmas Day. That's what Dimitri Kesari
21 was working on Christmas Day. That's what John Tate was working
22 on Christmas Day. That's how important this was.

23 But Sorenson wasn't quite on board yet. December
24 26th, the day after Christmas, Dimitri Kesari flies from home to
25 go to Des Moines to get ready for the caucuses. And what does

1 he do when he gets off the plane? He goes and he has dinner
2 with Kent Sorenson, and that's when he continued the hard sell
3 and he drops the \$25,000 check, \$25,000 on Kent Sorenson's wife.
4 You know exactly what that money was for. That was for his
5 endorsement.

6 Let's go ahead and fast forward to December 29th --
7 excuse me, December 28th. Remember even after the \$25,000
8 check, Sorenson gets a little bit of cold feet, and he hems and
9 haws a little bit about whether he's going to come on board; but
10 that night, December 28th, he goes to the Ron Paul Rally, the
11 one at the State Fairgrounds. Remember Kent Sorenson's
12 testimony about this. Dimitri Kesari was trying to get me all
13 day on December the 27th after he gave me the check. He was
14 calling me, lighting me up. And remember the phone records from
15 December 27th. You can look at them back in the jury room.
16 They show a ton of calls from Dimitri Kesari trying to get in
17 touch with Kent Sorenson, trying to get in touch with Kent
18 Sorenson. And the morning of the 28th it stops.

19 Remember Kent Sorenson, he told you about how he drove
20 around some that day, he tried to get his head together, and he
21 decided I'm doing it, I'm taking the money, I'm going to endorse
22 Ron Paul. And he goes to the rally, and he calls Dimitri
23 Kesari. And the phone records back him up, just the way he said
24 it, 7:01 p.m., two-minute call to Dimitri Kesari: I'm outside.
25 Are we going to do this? And Dimitri Kesari, remember Kent

1 Sorenson's testimony, runs outside and puts his arm up looking
2 for him and actually calls him and says, flash your lights, I
3 don't know where you are. The phone calls backing Kent Sorenson
4 up just exactly like he says, 7:10 p.m. And remember after that
5 things happen fast. Kent Sorenson goes inside with Dimitri
6 Kesari to the rally, and he goes back behind that blue curtain
7 you saw. And who does he see there? John Tate, Jesse Benton,
8 of course, Dimitri Kesari. At some point he gets his picture
9 taken with Ron Paul.

10 What does Jesse Benton say to Kent Sorenson? You bled
11 for us. We'll take care of you. We'll take care of you.
12 That's the \$25,000, that's the payment, and that's why Kent
13 Sorenson within minutes of getting there goes on stage and
14 endorses Ron Paul. And you remember he walks off that stage and
15 who's there watching? John Tate and Dimitri Kesari, right there
16 in those still photographs that you saw.

17 Just a minute later or so Ron Paul is getting ready to
18 take the stage. Who's at his side right there? John Tate. And
19 within a minute of that, after Ron Paul takes the stage, as
20 Agent LoStracco testified, there they are, Dimitri Kesari, Kent
21 Sorenson looking up together. Thirteen minutes later while the
22 defendants and Kent Sorenson are behind that blue screen behind
23 stage, Ron Paul addressing the crowd, Dimitri Kesari writes an
24 e-mail to Fernando Cortes copying Jesse Benton and John Tate, "I
25 will need a wire for \$25,000 first thing in the morning. Jesse

1 has approved."

2 Is that a coincidence? All of the evidence shows that
3 Dimitri Kesari is with Kent Sorenson when he writes that e-mail.
4 \$25,000. Why \$25,000? The exact same amount that he gave to
5 Kent Sorenson two days earlier. That's not a coincidence.
6 That's to cover the \$25,000 DGI check, the check that Dimitri
7 Kesari wrote on the account of his own jewelry company. And
8 what did he write two days earlier in the evening to the
9 campaign staff after the dinner hour? "The deal is done."
10 Dimitri Kesari thought he had the deal done on December 26th.
11 It took him a couple more days to get it done; but what was that
12 payment for at dinner, 25,000? For an endorsement. And what's
13 that wire sent while Ron Paul is still on the stage within a
14 half an hour -- excuse me, within 15 minutes of after Kent
15 Sorenson has endorsed Ron Paul for the presidency, after he has
16 defected from the Michelle Bachmann Campaign, I'll need a wire,
17 \$25,000, to cover that check. That's not a coincidence.

18 Let's just back up real quick to December 26, 2011, to
19 frame ourselves. Remember what happened when Dimitri Kesari
20 went to go meet with Kent Sorenson on that day? He sent an
21 e-mail to John Tate and Jesse Benton. They knew he was meeting
22 with them that night. I will make this happen. We'll keep you
23 up to date. I will make this happen. That's why he drops a
24 \$25,000 check.

25 What does John Tate say? "Hey, I will be flying for a

1 few hours, but please keep Jesse updated," because John Tate
2 knows this is important.

3 Ladies and gentlemen, John Tate and Jesse Benton want
4 you to believe that they didn't know anything about that \$25,000
5 check. You know that's not true.

6 Dimitri Kesari, he had to ask permission to meet with
7 Kent Sorenson, his friend. Do you think he dropped a \$25,000
8 check written on his own jewelry account without running it by
9 the heads of the campaign? That's why they're copied on that
10 e-mail on December 28th, "I will need a \$25,000 wire first thing
11 in the morning."

12 We go back to that night. After Ron Paul is done
13 speaking, there they are, John Tate, Jesse Benton, Kent
14 Sorenson, Dimitri Kesari. What is Jesse Benton doing? Working
15 on his iPhone just like he always does.

16 About 25 minutes later, there they all are again still
17 at the rally, Tate, Benton, Sorenson. Remember Sorenson's
18 testimony about how Kesari was standing next to him against that
19 wall the whole time, and you can just see the very crown of his
20 head in this photograph.

21 What happens while they're all there at that rally?
22 The Paul Campaign circulates the press release. Iowa State
23 Senator Kent Sorenson endorses Ron Paul for President. It's out
24 there. Sorenson is done on stage. They issue the press
25 release. Why are they able to get that release out so quickly?

1 They had it in the hopper for a few days because they were
2 working on it Christmas Day. And then what happens to cap off
3 that night, December 29 at 1:30 in the morning, John Tate
4 responding to the wire e-mail, to the request for the wire that
5 Jesse has approved, John Tate: "Yep, approved." He knows
6 exactly what that's for. That it's for Kent Sorenson for his
7 endorsement.

8 Now, at that same time after the endorsement the night
9 of December 28th, the heat gets turned up on the Ron Paul
10 Campaign, doesn't it? Michelle Bachmann goes out and accuses
11 the campaign of paying Sorenson, and they know they have a
12 problem. Remember Kent Sorenson's testimony about how he had
13 told Marcus Bachmann, Michelle Bachmann's husband, and at least
14 one other member of the campaign that he was offered money to
15 switch. In fact, he told Guy Short about the DGI check, and he
16 relayed that to Dimitri Kesari. These guys knew they had a
17 problem on their hands. And one thing you know about them,
18 right there that night, right there on December 28, 2011,
19 they're ready to lie about it. What does Jesse Benton write to
20 the Washington Post? He's not being paid. To another reporter
21 that next day, no, he's not being paid. And that night, 10:43
22 p.m., December 28th, John Tate writes to Jesse Benton, the two
23 heads of the campaign, "We need to make sure anyone asked about
24 this (including Drew, Kent, et cetera) is prepared to say the
25 same thing."

1 This is John Tate telling Jesse Benton, you need to
2 get everybody on page 1 about this. And he says something else
3 in this e-mail at the end, "Short, sweet and truthful."

4 What's John Tate doing here? John Tate is being
5 ironic. You know John Tate knows exactly what's going on. In
6 fact, there's a phrase before it that people use sometime for
7 being in the loop, for knowing what's happening, "you know what
8 time it is." John Tate knows exactly what time it is, and one
9 thing you know about John Tate and Jesse Benton from these
10 correspondence from the media, they're not truthful. They're
11 out there to make a mockery of the truth. They are ready to lie
12 about these payments. They know exactly what time it is.

13 So what's happening the next day on December 29?
14 Making sure everybody is prepared to say the same thing.
15 Remember Kent Sorenson's testimony about how the next morning
16 around mid-morning he went to the campaign headquarters and he
17 met there with Dimitri Kesari and they talked about what he was
18 going to say. He was going to go on national TV that day on CNN
19 and on Fox News, and they specifically talked about him denying
20 payments and pointing to what? The FEC reports, the financial
21 reports. Those will back us up.

22 And what does Kent Sorenson tell you about that
23 meeting? That Dimitri Kesari told him that during the meeting
24 he was on the phone with Jesse Benton. And what do the phone
25 records from December 29, 2011, show you? They back up Kent

1 Sorenson, a phone call right there at 11:00 a.m. with Jesse
2 Benton. He also told you he doesn't know who else Dimitri
3 Kesari was on the phone with that morning. And what do the
4 records show? A 16-minute call with John Tate right in that
5 critical morning, right when they're talking about what's going
6 on, when the agreement is formed to conceal these payments
7 forever by hiding them from the FEC.

8 Everybody knew what time it was. And just like the
9 e-mails, these records showed conversation between Dimitri
10 Kesari and John Tate about what's going on. And then what does
11 Kent Sorenson do? Call Benton.

12 And so Kent Sorenson goes on national TV that
13 afternoon, at around 1 o'clock in the afternoon. And later that
14 afternoon the campaign issues a press release where Sorenson is
15 quoted as saying, financial reports come out in just days which
16 will prove what I'm saying is true.

17 And you can look at that video if you want, that
18 interview when you go back, and he said the exact same thing to
19 Megyn Kelly: Financial reports are coming out and they're going
20 to back me up on this.

21 Would Kent Sorenson have gone on national TV and said
22 that had he not talked about it with Dimitri Kesari, had he not
23 made sure that everybody knew exactly what time it was? Why is
24 the campaign putting out this statement? Why is Kent Sorenson
25 going on national TV and challenging voters to check the FEC

1 reports? Because they knew that these payments are never going
2 to show up there.

3 What else is going on in this time period? The
4 defendants scrap the wire. Remember Benton in the afternoon:
5 Hold that \$25,000 wire, that one Dimitri -- that he requested
6 yesterday, hold for a couple of days.

7 Tate: Yep. We are going to.

8 Kesari, in case it's unclear making it abundantly
9 clear why they're holding it: We are holding till after the
10 filing. We are holding till after the filing.

11 These defendants want you to believe that \$25,000
12 check was for something else. Is all of this timing a
13 coincidence?

14 Kesari: I don't want it showing up on this quarter
15 filings, to Fernando Cortes to make sure Fernando Cortes knew
16 exactly what they were doing, we do not want this payment
17 showing up there.

18 John Tate: There will not be the 25k Dimitri wire for
19 now. Wipe it off the books, wipe it off the books.

20 In the cross-examination of Fernando Cortes, John
21 Tate's lawyers tried to suggest that this had to do with cash on
22 hand and with reserves and with the success of the campaign and
23 how much to report at a different time, trying to limit costs,
24 we'll do this later on. Ladies and gentlemen, you heard from
25 Ron Paul himself, the campaign was doing great on finances.

1 They raised \$40,000,000. You saw it in the reports and in the
2 e-mails. In this time period the campaign was spending about
3 \$7,000,000. \$25,000 a lot of money, but \$25,000 doesn't make a
4 lick of difference on the reports of a \$7,000,000 reporting
5 period for a \$40,000,000 campaign. This wasn't about cash on
6 hand and reserves. This was about wiping the payments off the
7 campaign books to Kent Sorenson.

8 And what else is so important about these e-mails?
9 They show you that these three men knew exactly how this worked.
10 They understood that any expenditure from the campaign had to be
11 reported to the FEC. They understood that if they had money
12 that could be traced to Kent Sorenson, it was going to show up
13 on an FEC report and that could not happen. These payments
14 needed to stay secret forever. They knew exactly about the
15 campaign machinery that Fernando Cortes explained to you. They
16 knew exactly what they were going to have to do to hide these
17 payments forever.

18 And a couple of days later, Ron Paul now goes on
19 national TV and denies having paid Kent Sorenson. And what else
20 does he do? He challenges the Bachmann Campaign to prove it up,
21 to come up with the evidence. You know from all the evidence in
22 this case that on December 29, 2011, these defendants decided,
23 they agreed to hide these payments forever; but as if they
24 didn't have enough of a problem on their hands after the
25 Bachmann Campaign allegation, once the United States House of

1 Representative member, Ron Paul, presidential candidate, Ron
2 Paul, goes on national television and says that, there was no
3 going back. These defendants needed to hide those payments, to
4 protect themselves, to protect their reputations, to protect
5 their standing in the campaign.

6 So now let's talk about how they went about doing it.
7 Mr. Pilger in this case when he opened, he told you, follow the
8 money and you'll see exactly what's going on. So let's follow
9 the money for that first payment to Kent Sorenson, the January
10 invoice that was paid out on February 8, 2012.

11 Remember how this worked. Kent Sorenson sent his
12 invoice to Dimitri Kesari. There it is, that first invoice.
13 And this is important for you to take a look at. Remember that
14 first invoice in January is for \$25,000 for the retainer to
15 provide services. That's the \$25,000 check. That's the \$25,000
16 check that they had to wipe off the books back in December, plus
17 \$8,000 for monthly services, \$8,000 going all the way back to
18 the Halloween e-mail, the Jesse Benton e-mail to Kent Sorenson
19 that he copied John Tate on, here is what we're willing to pay.

20 He passes that invoice on from Grassroots Strategy to
21 Dimitri Kesari. And what happens next? Dimitri Kesari passes
22 that same invoice along to who? His brother, Pavlo Kesari.
23 Here is the invoice that needs to be taken care of. Send me an
24 invoice for video services, for video services, 33k plus.

25 You heard the testimony of Pavlo Kesari. What is

1 Dimitri Kesari doing lying to his brother? Remember his
2 testimony? Dimitri Kesari came, went to Pavlo Kesari and said,
3 hey, I need your help paying somebody. It's this graphic
4 designer who's done a lot of work for the campaign.

5 There's no graphics designer involved. It's Kent
6 Sorenson. Kent Sorenson didn't do any graphic design work. He
7 didn't provide any video services. What is Dimitri Kesari doing
8 lying to Pavlo Kesari? Because he knows that they need an
9 invoice for something other than political consulting from
10 somebody other than Kent Sorenson to get this covered up. And
11 remember that. Please send me an invoice for video services.

12 What happens next? Pavlo Kesari takes those invoices
13 and, remember, he passes along to Sonny Izon invoices that he
14 creates. He changes Kent Sorenson's invoice. Remember his
15 testimony about why he did that? It would look better if I
16 broke it out. It would look better. And remember what this is
17 all about; the way this looks.

18 And what else does Pavlo Kent Sorenson slip in? Had
19 to come back here and testify about it. He slipped in this
20 invoice for 3,000 bucks for money that the campaign owed him
21 from back the year before. Remember he said, they were looking
22 to pay, I'm looking for a way to get paid.

23 You can look at that invoice. That's for speakers.
24 That's for a bunch of audio equipment that he sent out there.
25 That's not for video services. When Dimitri Kesari wrote Pavlo

1 Kesari "3kK plus for video services," he's talking about Kent
2 Sorenson plus a little bit on top for Sonny Izon for passing
3 this through.

4 And what happens next? Sonny Izon takes those
5 invoices, he creates his own invoices and sends them back to
6 Dimitri Kesari. Here is the ICT invoice right here for that
7 \$38,125 for production services. No mention of Kent Sorenson,
8 no mention of political consulting, no mention of an endorsement
9 or anything like that. Production services from ICT. And what
10 do you know from Sonny Izon's testimony and from all the other
11 facts in evidence in this case? ICT did no work whatsoever for
12 the Paul Campaign. It provided no production services
13 whatsoever. Kent Sorenson did no work whatsoever for ICT. This
14 was a passthrough.

15 And what happens to this invoice? What does Dimitri
16 Kesari do with it? Dimitri Kesari passes it on to Fernando
17 Cortes, "Please wire tomorrow morning. This is approved by
18 Jesse Benton." This is approved by Jesse, that invoice from ICT
19 for production services. And so what does Fernando Cortes do
20 with it? Fernando Cortes takes that invoice and he sends it to
21 Texas to members of the campaign who take these things in.

22 This right here (indicating), this attaches to the
23 invoice. This is for Ron Paul 2012. Please wire the following
24 to Interactive Communications, Inc. Amount, 38,125 with a code
25 60110. He codes it for audiovisual services based on what's on

1 the invoice, right? That's a false record. That's a false
2 record in the campaign, and when you go back and look at the
3 elements in Count 2, this can be one of your false records that
4 you find these defendants guilty for. They knew exactly what
5 time it was. They knew exactly what they were doing because
6 this (indicating), what happens with this record? There's the
7 invoice again, and it gets paid out. And where does it end up?
8 The FEC report, Interactive Communication Technology for
9 audiovisual expenses.

10 But you know from all of the evidence from the
11 December time period but also just following that money through
12 those invoices, that's not the payment for ICT for audiovisual
13 services. That is a lie. That is a payment to Kent Sorenson
14 for his endorsement. That's how they hid it and that's how they
15 caused it.

16 And how else do you know that? Follow the money.
17 What else do you have? From his bank right here in the Southern
18 District of Iowa, there it is, \$33,000 for Kent Sorenson from
19 ICT. Follow the money.

20 It went like that in January, February, March, April,
21 May, and June, just like that every time, causing false records
22 in the campaign's books that would cause false reports to the
23 FEC to keep these payments a secret forever. That is the crime
24 in this case.

25 So how do you know that Jesse Benton and John Tate

1 knew about this, that they were in on this? Well, you know
2 about it going back to December 29. We're going to hold the
3 wire for a few days, wipe it off the books. But what else do
4 you know here? This is right before Dimitri Kesari sends that
5 January invoice to Fernando Cortes for payment. It's actually
6 the day before. He sent that invoice, the first one, to
7 Fernando Cortes on February 8th. And what does he write John
8 Tate: "Did Jesse get Kent paid? He said he would handle it and
9 Kent is texting me today."

10 What does John Tate write back? "No idea. Ask him."

11 Not pay Kent, why pay Kent, not I thought he was
12 volunteering, not what are you talking about; just ask Jesse.

13 Dimitri Kesari writes Jesse Benton: Did you get Kent
14 paid? Wants to make sure that he follows up before he submits
15 that invoice with those passthroughs that he's done to Jesse
16 Benton.

17 What does Jesse Benton tell him? "Yo handle." The
18 details guy right here (indicating), you get it done; but
19 everybody knows exactly what time it is. We've got to pay Kent
20 but we don't want anybody to know about it, the details guy.
21 Remember what Tonya Hester told you when she testified about
22 Jesse Benton? He knows what's important, he knows how to spend
23 his time, he knows how to prioritize. "Yo handle" the details.
24 And remember when you look at the instructions on the conspiracy
25 offense, all of the defendants don't need to know all of the

1 details. They don't all even have to have the same role or do
2 the same thing. They have to be in agreement about what they're
3 doing. And what are these three men in agreement about what
4 they're doing? Hiding these payments from the FEC, "yo handle."

5 So let's talk more about Jesse Benton in particular.
6 This is an e-mail in May, May 2, 2012, with one of the invoices,
7 the invoice from ICT attached, the invoice from ICT for
8 production services with no mention of Kent Sorenson whatsoever.
9 And what does Dimitri Kesari write to Jesse Benton? "Kent's
10 bill. Pay?"

11 Jesse Benton doesn't write back and say, pay Kent?
12 Why would we pay Kent? Jesse Benton doesn't write back and say,
13 why is there a production services invoice attached from ICT?
14 What does Jesse Benton write? "Yes - last time." He writes
15 back within 48 minutes "Yes - last time." "Yo handle."

16 Now, let's just talk about this real quick because
17 Ms. Campbell tried to make a deal about how busy Jesse Benton
18 was during this time period, how hard he worked in the campaign,
19 and he did. He was a hard worker. He was committed. He was
20 driven. He was competitive. Remember Tonya Hester's testimony?
21 He wanted to win and succeed. He knew how to prioritize.

22 May 2, 2012, remember the testimony of Agent
23 LoStracco. Based on the chart that Jesse Benton provided to the
24 government of all of his e-mails, 377 e-mails that day. That's
25 a lot. 167 of them junk. He received 339. He only sent that

1 day 38, 38 e-mails. 38 e-mails were important enough for Jesse
2 Benton to send on May 2, 2012. That's one of them. "Yes - last
3 time. Kent's bill, pay."

4 Let's go ahead and go back and take a look at
5 February, the "yo handle" e-mail, 319 e-mails that day, 113 of
6 them junk, 258 received. Jesse Benton writes 61 e-mails that
7 day. "Yo handle" is one of them to the details guy, get it
8 done. He knows what's important. Jesse Benton knows what time
9 it is.

10 Let's talk about John Tate. February 16, 2012, he
11 writes this e-mail to Fernando Cortes where there's a list of a
12 bunch of invoices, and he says, don't know what Interactive
13 Communications Technology is. John Tate forgot. Dimitri Kesari
14 is the detail guy. Here is how you know. What happens on
15 April 3, 2012? Two invoices go out that day, two invoices.
16 Dimitri Kesari writing to Fernando Cortes, "Approved by Jesse,"
17 Jesse Benton. Fernando Cortes forwards them on to John Tate,
18 "Approved?" John Tate, it takes him all of four minutes to
19 approve the February invoice and the March invoice in rapid
20 succession. You can take a look at these e-mails. What's
21 attached? The ICT invoices for production services, the one
22 that a few weeks earlier John Tate forgot about what ICT is for,
23 but he's not asking any questions about ICT this day.

24 John Tate knows what time it is. And how else do you
25 know that? May 29, 2012, same thing, Fernando Cortes writes to

1 John Tate attaching an invoice, approved, Dimitri says it's the
2 last one. You can see on here -- I'm not going to show you that
3 attachment, but that invoice, and you can look at the exhibit,
4 attached another one of those ICT invoices for production
5 services. There it is actually. Approved, approved. It takes
6 them less than nine minutes to get back to Fernando Cortes.

7 John Tate knows what time it is.

8 And if that's not enough, let's go to June 25, 2012.
9 Fernando Cortes again sending an ICT invoice to Dimitri Kesari.
10 And, remember, John Tate wrote back to Fernando Cortes, I'll
11 find out what it is. And he immediately writes Dimitri Kesari
12 and he says, "What is this? What is it for, who is it? Why do
13 we keep paying them? The last payment was supposedly the last."

14 Dimitri Kesari is the details guy. John Tate forgot
15 exactly what ICT was. Didn't take much to remind him. What
16 does Dimitri Kesari write back? "The deal Jesse agreed to with
17 Kent, the last payment for Kent Sorenson." And you know exactly
18 what's going on here. There are two e-mails within 45 seconds.
19 You've probably done this before, write an e-mail in response
20 and you realize there's something else you want to say and you
21 go back to the original e-mail and you write another response.
22 "It was for six months." Because Dimitri Kesari is answering
23 these questions, what is this? The last payment for Kent
24 Sorenson, the deal Jesse agreed to with Kent. This is
25 supposedly the last one. He writes back in another one, it was

1 for six months.

2 John Tate wants you to believe that this e-mail was
3 never received by the Ron Paul server, that he never got it.
4 You know that's not true. Gunnar DeMarco, the special agent
5 with the FBI, walked through how that got to the Ron Paul
6 server. He walked through how Dimitri Kesari's computer
7 uploaded to the Ron Paul account for the last time on January 9,
8 2014, when the computer was turned over to the FBI.

9 John Tate tried to suggest with Gunnar DeMarco up
10 there, hey, wasn't the server imaged for the last time in 2013?
11 Agent LoStracco took care of that. When was the first subpoena
12 on the Ron Paul Campaign served? Mid June 2014, six months
13 after the last upload between Kesari's computer and the Ron Paul
14 server. You know what happened to that e-mail. That e-mail got
15 deleted. That's why it didn't show up on the Ron Paul server.

16 Let's get inside baseball on a trial. Why is John
17 Tate trying to make you believe that that e-mail never got to
18 the Ron Paul server even though all of the objective evidence,
19 all of the metadata shows exactly the opposite? Why is he doing
20 that? Because this e-mail devastates his defense. As if you
21 didn't have enough evidence already, there it is in black and
22 white. "What's ICT?" "The deal Jesse agreed to with Kent. The
23 last payment for Kent Sorenson." That hurts. That's why John
24 Tate is running away from this e-mail as fast as he can.

25 And what does he write back within a minute? "Okay.

1 Thanks." Not what deal, not why are we paying Kent Sorenson,
2 not why is this through ICT for production services? "Okay.
3 Thanks." And within that same minute "approved" causing the
4 false record to be made in the books, causing a false FEC
5 report.

6 Let's fast forward to August of 2013. Remember the
7 text records that you saw in evidence. Dimitri Kesari goes on
8 an international trip on July 20, 2013. He's out of the
9 country. And on about August 6th news breaks from the Iowa
10 Republican, remember Kent Sorenson told you about this, about
11 the payments, they were exposed, reporting about the
12 investigation. And Kent Sorenson is going to write a press
13 release, and he does write a press release in which he lies. He
14 says he never got paid. Dimitri Kesari is abroad. He writes,
15 "Did not get it yet," referring to the press release. "I'm
16 taking off as I write this. Hold off till I land and review the
17 release."

18 What else does Dimitri Kesari do while he's in
19 Toronto? Remember what the text records show? That he flew
20 through Toronto back to Dulles, and what his roaming records
21 show, calls from Toronto to who? Kent Sorenson, Jesse Benton,
22 John Tate, Jesse Benton, Kent Sorenson in rapid succession. Why
23 was Dimitri Kesari doing that? Because Dimitri Kesari committed
24 crimes with these men and the word is getting out. The payments
25 are no longer a secret. You know exactly what Dimitri Kesari is

1 doing.

2 And what does he do when he gets home? What do most
3 people do when they get home from about 17 days away abroad?
4 Usually get home, maybe unpack your bag, maybe clean up a little
5 bit, maybe check the mail. What is Dimitri Kesari doing? On
6 the phone with Kent Sorenson, John Tate, Jesse Benton. What's
7 he talking to Jesse Benton and John Tate about? What are we
8 going to do about Kent Sorenson, what are we going to do about
9 Kent Sorenson?

10 And what happens that weekend, August 10, 2011?
11 Dimitri Kesari gets on a plane three days after getting away,
12 coming back from his international trip. He buys a ticket, gets
13 on a plane and flies to where? Not Des Moines. He flies west
14 of Des Moines to Omaha, Nebraska, rents a car and drives back to
15 Kent Sorenson's home to go confront him about the check.

16 What did Kent Sorenson tell you about that? Dimitri
17 didn't want any record about being in Des Moines with all of
18 this. And what does Dimitri Kesari do? He says to Kent
19 Sorenson, pull up your shirt. Is anybody recording this? And
20 then he proceeds to try to convince Kent Sorenson to give him
21 back, what? The check, the check for \$25,000, the check that
22 sealed this deal, the piece of paper that's out there proving
23 that the allegations are true. These defendants don't need to
24 worry about FEC reports at that point. They've got that
25 covered. They've got the payments hidden there. But this check

1 is out there and Dimitri Kesari wants it back, and if he can't
2 get it back, what does he tell Kent Sorenson to do? Write
3 "loan" on it, write "loan" on it, come up with something else.
4 You've got this check (indicating). You know exactly what that
5 check was for. You know that Dimitri Kesari, Jesse Benton, and
6 John Tate knew exactly what time it was.

7 Now I'm just going to take a couple more minutes to
8 talk to you about the elements of the offenses, the offenses
9 that are charged in this case. Remember there are four crimes
10 and you've got the instructions on them and you can rely on
11 those when you go back. Let's talk about the conspiracy charge
12 first. That two or more people, that these defendants agreed to
13 commit a crime, one of the other three crimes charged in the
14 indictment, causing false records, causing false FEC reports, a
15 scheme to cause false FEC reports. They agreed to commit one of
16 those offenses. How do you know they did that? Because they
17 agreed to cover up the payments on December 29, 2011. They
18 agreed to keep them secret forever by making sure that they were
19 falsely reported to the FEC. That's the criminal agreement
20 under the facts of this case, ladies and gentlemen. You can
21 check that box.

22 That they joined in the agreement, you know that. You
23 know that from the December 29 e-mail from John Tate, wipe it
24 off the books. Jesse Benton, hold till after the filing. You
25 know that from the approval of the invoices that they knew what

1 time it was. You know they joined the agreement because they
2 needed to keep these payments secret.

3 The third element of conspiracy, that they knew what
4 the purpose of the agreement was. There's no doubt about that,
5 there's no doubt about that. Check that box, the purpose was to
6 hide these from the FEC.

7 And then, finally, the overt act requirement for
8 conspiracy; that one of the defendants did some act in
9 furtherance. When you go back into the jury room to deliberate,
10 you're going to see that there's a list of alleged overt acts in
11 the indictment. You just need to find that one of the
12 defendants committed one of them. An example of one of those
13 overt acts? Dimitri Kesari flying out to Omaha, driving to
14 Des Moines to try and get that check back. And you'll see when
15 you look at that overt act that it says to try and get the check
16 back from December of 2012. That's a typo. It's the check from
17 December 2011. You know what check we're talking about, this
18 check right here (indicating), the evidence against these guys.

19 The second count in the indictment, causing false
20 records, it is very straightforward, ladies and gentlemen; that
21 the defendants voluntarily and intentionally caused a false
22 entry in a record or document. What's the record or document?
23 The campaign's records, their books, or the FEC filing. They're
24 all false. They caused those things to be false. Check that
25 box.

1 That they did so with the intention to impede,
2 obstruct, or influence the proper administration of a matter.
3 What is it that they're looking to impede? The FEC reporting
4 obligations of the Ron Paul Campaign, the requirement that FEC
5 reports be truthful. Check that box.

6 The other offenses charged in the indictment have
7 really similar elements, and I'm not going to walk through each
8 of them. You've got them back in the room. You can look at
9 them and you'll see when you go down those elements, you can
10 check the box for each of them.

11 But let me just go through one additional element,
12 willfulness. This does not apply to Count 2. And,
13 incidentally, ladies and gentlemen, Count 2, the one I just went
14 through, falsification of records, that count only applies in
15 this proceeding to John Tate and Jesse Benton. The others apply
16 to all three of them. But for Counts 3 and 4, causing false FEC
17 filings and for making the false statements scheme, the
18 government has to prove what's called willfulness. Willfulness
19 is that the defendants undertake an act knowing it to be against
20 the law. These are professional campaign operatives, ladies and
21 gentlemen. They know about the FEC. You know that from the
22 e-mails on December 29. They know the FEC reports need to be
23 truthful. They know the consequences of their action. They
24 don't have to know the exact code section. They don't need to
25 know all the particulars of the law. They want you to believe

1 that this is all confusing. They want you to believe that
2 campaigns, which they can, can report -- can pay a vendor and
3 that the vendor can pay the sub vendor and all they need to do
4 is report the vendor on the FEC report.

5 Anybody who has ever done general contracting work or
6 had work done on their house knows how this works. There's a
7 general contractor who pays subcontractors, right? That's not
8 what happened here. ICT is not a general contractor paying a
9 subcontractor. ICT is a passthrough. ICT did no work. ICT
10 facilitated the payments.

11 Finally, ladies and gentlemen, with respect to the
12 false statements count, Count 4, the government needs to prove
13 materiality, which simply means that the report that was -- what
14 was put on the report is capable of influencing an agency
15 decision. And you know that from Michael Hartsock's testimony;
16 that when the FEC gets these reports, they look at the purpose
17 of disbursement and they make a decision about whether to
18 publish, and what's on there influences their decision to
19 publish.

20 You also know from taking a close look at the FEC
21 report on page 1 that it's required that the person who signs
22 off on the report sign off on its truthfulness. These things
23 matter. The truth matters. What they put on these forms is
24 material to what the FEC does.

25 That is false. That is a lie. These were not

1 payments to ICT for audiovisual services. These were payments
2 to Kent Sorenson for a political endorsement. These defendants,
3 they threw sand in the eyes of Iowa voters. They threw sand in
4 the eyes of the FEC. They are guilty of all of the crimes
5 charged, and that's exactly what you should find.

6 THE COURT: Ms. Campbell.

7 MS. CAMPBELL: Yes, Your Honor.

8 THE COURT: You may make Mr. Benton's closing
9 argument.

10 MS. CAMPBELL: May it please the court, gentlemen,
11 Counsel, ladies and gentlemen of the jury.

12 This case could be very simple because you see it's
13 supposed to be about FEC reports. It's supposed to be about
14 what are in these binders. It's supposed to be about whether or
15 not someone, specifically Jesse Benton, put something false in
16 these reports. And you see he's not the one that signed it.
17 He's not the one that reviewed it. He's not the one that sent
18 the invoices to have them put in there. He's not the one that
19 coded he had it. It's supposed to be about the FEC reports, and
20 it's supposed to be about each of the FEC reports; but we've
21 spent a lot of time talking about what this case is not about.

22 This case is not about whether or not you can pay
23 vendors and sub vendors who are not listed in the report. The
24 judge actually told you that. You can do that. If this case
25 was really about the FEC reports and that you really couldn't do

1 that, the government would spend a whole lot more time going
2 through these reports because you know what's in these reports?
3 Vendors who pay sub vendors, paymasters who pay their
4 independent contractors, companies like Public Appeal who
5 provide services and who have contractors who provide services
6 that they pay to get reported in those reports. They're all
7 through these reports. All of these reports have sub vendors
8 and vendors and payments to contractors. Each one of these
9 thousand page binders is talking about FEC reports.

10 It's also not about paying for an endorsement. We
11 hear a lot about whether or not they were paying for an
12 endorsement. We contest it was a payment for an endorsement.
13 Specifically Mr. Benton turned down paying for an endorsement.
14 As the judge told you, the FEC doesn't say you can't pay for an
15 endorsement. It's not about paying for an endorsement. It's
16 also not about market value. We've heard over and over and over
17 and over about what did Kent Sorenson do or not do for the
18 campaign, what's he worth or not worth? There is nothing in
19 this FEC report or in these rules or in these instructions that
20 talk about market value. If the campaign wants to pay a million
21 dollars for an ad, they can do it. If they want to pay a
22 thousand dollars for an ad, two million dollars for an ad, they
23 can do it. It's not about market value.

24 It's not about Kent Sorenson's problems with the
25 Senate. You see everything in this case is about Kent

1 Sorenson's problems with the Senate. You see because he had
2 structured his payments with Ms. Bachmann to work around whether
3 or not he could remain as an Iowa State Senator under the state
4 senate ethics rules, but these guys don't have to follow the
5 state senate ethics rules. They're not state senators. Kent
6 Sorenson does. So it's not about structuring the payments to
7 help Kent Sorenson break the ethics rules. There's nothing
8 about the FEC preventing that. That's not what this case is
9 about.

10 And there's also a lot of things that are not about
11 Jesse Benton. There is the check. We spent a lot of time
12 talking about the check, about whether or not Jesse Benton knew
13 about the check. There's no evidence in this case that he knew
14 about the check and, in fact, there's evidence all over the
15 place that he didn't know about the check. A check like this, a
16 check like this could hurt them. A check like this if they knew
17 about it would be something to be worried about. A check like
18 this if they knew about it would make that \$25,000 wire request
19 of Dimitri Kesari cause them some concern if they knew about the
20 check.

21 But you see Kent Sorenson even told you that on
22 December 26th when Dimitri Kesari wrote out the check, it was
23 given to his wife. He didn't know it was coming. It wasn't
24 part of the deal. It wasn't something that Jesse Benton had
25 said. In fact, Jesse Benton had turned down paying actual money

1 for the endorsement.

2 Dimitri Kesari says the deal is done, but you see here
3 there's no Jesse Benton. Jesse Benton is not part of this
4 check. You know when he finds out about the check is when it
5 shows up on August 7, 2013 when that recording from Dennis
6 Fusaro gets released. Because if he knew about the check, he
7 would have been freaking out about it before then. He wouldn't
8 have delegated handling Kent Sorenson to Mr. Kesari. He
9 wouldn't have said no more paying him in April. He wouldn't
10 have refused to talk to him and had his back to him at the --
11 you see the picture where he has his back to Kent Sorenson at
12 the event. If he knew about the check, it would have been
13 different. His reaction would have been different.

14 Now, we know from the evidence that Jesse Benton
15 doesn't know about the \$25,000 deal. In fact, Kent Sorenson
16 told you he didn't know about the \$25,000 deal until Dimitri
17 Kesari wrote the check, and Dimitri Kesari should not have
18 written that check. But what we know from Jesse Benton's mind
19 is the Aaron Dorr response, when they asked him to do exactly
20 this, pay me for stuff, pay me just to jump ship, you can, you
21 can; but Jesse Benton says no; no, Aaron Dorr, I won't do it.

22 The other reason we know that there's no deal for
23 \$25,000 is Jesse Benton had said, this is absurd, pull the
24 offer, pull the offer; not pull the check, not get that check
25 back. Pull the offer, the offer that was a response to the

1 Aaron Dorr memo, \$8,000 a month. Pull it it's off the table.
2 We're done with Kent Sorenson.

3 So what does the government rely on to try to connect
4 Jesse Benton to some deal, to this deal that they need to have
5 this deal that Jesse Benton has agreed to in December because
6 without this deal in December, without this deal that Jesse
7 Benton supposedly said to Kent Sorenson behind the stage, Jesse
8 Benton isn't involved at all in any of the other evidence about
9 the check, about \$25,000, about paying for an endorsement. In
10 fact, all of the evidence shows he said, no, Kent. So we get
11 this Kent Sorenson version of what Jesse Benton says to him.
12 The only thing Jesse Benton ever says to Kent Sorenson, you bled
13 for us and I will take care of you.

14 And it's hard as a defendant, it's hard to prove a
15 negative. It's hard to prove that something wasn't said. It's
16 hard to prove something didn't happen, but we did our best. We
17 brought in two people that were around, two people that were
18 around to say, No. 1, I didn't hear it; No. 2, that's not how
19 Jesse Benton talks. Jesse Benton doesn't talk in the I would
20 bleed for you metaphor. He talks directly and to the point.

21 Now, the government apparently in their closing has
22 now backed off of this secret meeting on the 29th to tell Kent
23 Sorenson to lie. I think you saw a pretty good indication of
24 what happens when someone questions Kent Sorenson. Frankly, I
25 felt like Megyn Kelly. Would you give me a straight answer,

1 going back and forth, yes or no, what is it, is it yes, is it
2 no. He stumbled over his words while the Bachmann bus and truck
3 are driving around back and forth around him.

4 We demonstrably proved there was no meeting on the
5 29th where Jesse Benton was on a speakerphone telling Kent
6 Sorenson to lie to Megyn Kelly. Why are we doing that, why were
7 they doing that? Because Kent Sorenson under oath, under oath
8 previously has said, I heard Jesse Benton's voice on that cell
9 phone, on speakerphone, I heard his voice. But he can't come in
10 and say it again. He can't come in and say it again. Why?
11 Because we have the phone records. Now we have the phone
12 records to show Kent Sorenson is never off the phone himself at
13 the same time on the 29th when Jesse Benton is on the phone. He
14 can't hear his voice. That's what all of this is about phone
15 records, trying to demonstrate to a jury that Kent Sorenson's
16 word means nothing.

17 So what we do know is that Jessie Benton did not
18 approve any amount for that \$38,000. December/January, how do
19 we know that? In December and January Mr. Izon first -- he
20 testifies that first contact with ICT made in December or
21 January with Pavlo Kesari. On January 16, 2012, Kesari says, do
22 you want Sorenson to come to South Carolina? And Benton says,
23 what would he do? Not we've already paid him, not yeah, he
24 better work off that \$36,000 we're about to pay him.

25 On January 27th Sorenson sends an invoice to Kesari

1 right after he goes to South Carolina, and you can imagine
2 what's actually happening here, and we'll get to that later.
3 But what you don't have in here is Jesse Benton saying, yes, pay
4 him \$25,000 to cover the check; yes, pay him \$33,000; yes, pay
5 him this maximum amount of money because Jesse Benton wouldn't
6 have and didn't and when he was asked previously said, no, if he
7 wants to work, he can work for the market value of \$8,000.
8 Little did he know everyone was lying, Kent Sorenson was lying,
9 it really wasn't \$8,000; but that's what he thought was the
10 market value, he worked for market value.

11 And on February 7th Mr. Kesari says, did Jesse get
12 Kent paid? Not should I use ICT like we've been talking about?
13 Should I run it through my brother's company? Should I find
14 this guy, Sonny Izon, that you've never heard of before, ever?
15 Should I do this all leading up preparing for a case you say no
16 or that's not -- or that's too much or no we're not paying him,
17 why would we pay him \$25,000. Because Jesse Benton doesn't know
18 about the check.

19 And then we get Jesse Benton's response. You handle
20 it, you handle it. This check, I mean, it's hot, it's hot.
21 It's a problem. It's a problem if Jesse Benton knows about it.
22 It's something that hurts Ron Paul if Jesse Benton knows about
23 it. Do you think he's going to delegate, delegate this check to
24 Dimitri Kesari if he knows about it, to delegate covering it up?
25 No. He would have handled it.

1 What he's telling Dimitri Kesari is, fine, all right,
2 we'll pay him the 8,000, fine. He went to South Carolina, fine.
3 You handle it. I'm done talking with him.

4 I'll explain why in a moment.

5 What we also don't have in evidence anywhere is
6 Mr. Benton approving the structure of how he was going to be
7 paid, how it was going to go from Dimitri from Kent Sorenson to
8 ICT to -- could we do the next slide, please -- he doesn't know
9 Sonny Izon. He doesn't know Mr. Kesari. He's never met them.
10 He's never talked to them. He doesn't even know who ICT is. He
11 doesn't know who owns it. He wouldn't know. He wouldn't have
12 any idea. All he knows is that this is the way things work,
13 people get paid through companies and the invoices that he sees
14 would not raise a red flag because everyone gets paid through
15 companies, everyone gets paid through companies. And if he
16 doesn't know who ICT is and he doesn't know who owns it and he
17 doesn't know the structure and he doesn't know anything about
18 ICT or the people setting up the structure, he can't possibly
19 know how it's going to get coded.

20 We also have all of these other things that Jesse
21 Benton is not on. First major one is this \$38,000 invoice.
22 Jesse Benton is not on any e-mails with that attached. That's
23 not sent to Jesse Benton. That's not, Jesse, will you approve
24 this first one --

25 Back up, please.

1 Will you approve this first one for \$36,000 -- 38,000;
2 excuse me? No. What he's approved is we'll pay Kent Sorenson
3 for when he went to South Carolina, not we're going to cover
4 that \$25,000 check that you wrote him, why did you write him
5 that.

6 There's none of that, there's none of that. There's
7 nothing talking about the check. This invoice does not go to
8 Jesse Benton, this amount does not go to Jesse Benton, this deal
9 does not go to Jesse Benton. He does not see it.

10 We also have other things that Jesse Benton doesn't
11 see. We know that he approves paying him some amount, that was
12 the offer, he does pay him some amount.

13 Now, if -- we heard Mr. Baeza say when Jesse talked,
14 people listened to him; when Jesse says something, people listen
15 to him. Maybe that's why when someone says Jesse approved,
16 people just say, oh, okay, well, Jesse approved, it's on the up
17 and up. If Jesse approved, it's legitimate. If Jesse approved,
18 we respect, we respect Jesse Benton because he does things
19 ethically and legally. So if someone says, Jesse approved it,
20 it must be okay.

21 Of course, Jesse Benton is not on the e-mails that say
22 Jesse Benton approved. Jesse Benton did not approve the
23 structure. Jesse Benton did not approve using ICT and running
24 everything in a big circle. And he says, last time. There's
25 one person that's not listening to Jesse Benton, and that's

1 Dimitri Kesari. He's not listening to Jesse Benton because
2 Jesse Benton says last time, and it's not the last time, and
3 Jesse Benton is not on the next two e-mails.

4 We'll talk about what would motivate a deputy campaign
5 manager to go against the will of the campaign chairman in a
6 minute.

7 What do we know about Jesse Benton? We know people
8 listen to him. We know people respect him. We know he e-mails
9 a lot. Why are we talking about numbers of e-mails? Notice
10 this multiple hour event at the veterans' event, and the
11 government took screen shots. Remember those screen shots?
12 They didn't play the whole event, but screen shots of the event
13 of trying to do a time line where Dimitri Kesari says, I need a
14 wire, and then they do a screen shot of Jesse Benton looking at
15 his phone. That's why we're talking about numbers of e-mails.
16 They're trying to say, oh, he sent this and 45 minutes later we
17 have a picture of Jesse looking at his phone. That must mean
18 that he knows about the check. That just falls on its face.
19 It's 530-some e-mails on that day. He's always looking at his
20 phone, and unless he already knows about the check, the \$25,000
21 wire isn't even going to catch in his mind because that's not
22 the deal, and he doesn't know about the check.

23 We also know that he talks to the employees of the
24 campaign. Now, the government puts up phone records and says,
25 oh, look we can tell this happened on this day because of the

1 phone records. You can look at any phone records any day.
2 November 15, guess what? Jesse Benton, the campaign chairman,
3 was talking to his campaign manager. How about November 21st?
4 Oh, again, multiple calls, campaign chairman talking to campaign
5 manager. Let's choose another day. February 3rd, he's talking
6 to his campaign chairman. He's talking to his deputy campaign
7 manager. How about another day? Let's go to Jesse Benton's
8 phone records. These are a little harder to follow if you go
9 through them in the jury room because they're under UTC time,
10 which is not a time zone, but you can tell from Jesse Benton's
11 phone he's talking to the people on the campaign. They are
12 running a campaign to elect a president during the primary
13 season, and they are talking to each other on the phone to talk
14 about the campaign. Just because a phone call exists does not
15 mean that there's a conspiracy.

16 So what also do we know about Jesse Benton? We know
17 he acts ethically and legally. We actually have it in writing.
18 "The proposal you sent us was, however, surprising for trying to
19 sell Kent's endorsement. That would be unethical and illegal.
20 Dr. Paul, John, and I would not do that. However if you want to
21 work for market value we would be happy to have your support, if
22 you work for market value, if you work, you can come over, we'll
23 pay you."

24 Now, the government made a big deal about telling
25 Dimitri Kesari to stop talking to Kent Sorenson. Do you

1 remember? This is right after the Aaron Dorr memo, right after
2 the shakedown of, like pay us a hundred thousand dollars, give a
3 public apology to the gun association, pay me this amount, I
4 have to be allowed to disagree with Dr. Paul.

5 You can read it if you want. This is in response.
6 Dimitri, stop talking to these guys right now. I mean, these
7 guys just sent us something that's illegal. Don't talk to them
8 right now, let us talk to them. You don't talk to them. The
9 Dorr memo is illegal, you need to be careful with them because
10 they're doing some shady stuff and you don't meet with them.
11 And that's why Dimitri Kesari later says, am I free now to meet
12 with him? He's my friend, I hang out with him, I make dinner
13 for he and his wife, am I free to go meet with them. And then
14 they say yes.

15 So listen to what Jesse Benton also says, what we have
16 in the record. People have to get paid, people have to work to
17 get paid. The offer to Kent Sorenson is to match, match \$8,000,
18 but they think he's matching the Bachmann Campaign. He says,
19 this is absurd, pull the offer. So on December 28th the calls
20 stop because the offer is pulled, no more offer. That's Jesse
21 Benton's words "no more offer," December 28, it's off the table.
22 April invoice he says, last time. He doesn't say, keep paying
23 him. He doesn't say, well, did you cover that \$25,000 check,
24 did you get the check back? He doesn't say anything like that;
25 just says no, last time, done with Sorenson.

1 What else do we know about Jesse Benton, including all
2 of these things about the press releases, what the press
3 releases say on Kent Sorenson's last -- his phrasing that he
4 uses on December 29th. What we have from Jesse Benton is, yeah,
5 approved, send it out, but I can't edit, I can't edit. Why?
6 Because he was traveling around Iowa for multiple events a day,
7 traveling with the candidate, on the bus, having to do all sorts
8 of things for the campaign. He's not editing press releases.
9 He's even telling them in writing, I'm not editing them. And he
10 has a pretty crazy travel schedule in December of 2011. I mean,
11 he is flying everywhere.

12 They're making this all about Iowa. Jesse Benton was
13 not just worried about Iowa. I mean, he's New Hampshire, he's
14 Washington, D.C., he's Texas, he's California, he's all over the
15 place just in December because this is a national campaign.
16 He's not the Iowa Chair. He's the National Chairman of the
17 entire campaign, the entire campaign. And to pull out page
18 763 -- 7,436 of one of these reports is not his job. That's not
19 what he's doing. He was not reviewing FEC reports.

20 What does he say? What does he say, the person whose
21 words will matter? We are not paying Senator Sorenson. Not we
22 didn't offer him; we are not. He will not be getting paid in
23 December, he will not. Offer is off the table. So those are
24 the words of Jesse Benton.

25 Then we get into January -- and we talked about

1 this -- do you want Kent to come down to South Carolina and
2 we'll talk about why Mr. Kesari is even asking this at this
3 point. And, second, what would he do with his response? Fine.
4 What would he do? Send him to South Carolina. It's not until
5 after he goes to South Carolina that you know that they start --
6 Sorenson actually sends his invoice to Dimitri Kesari, not to
7 Jesse Benton, Dimitri Kesari. And now Dimitri Kesari, who's
8 already set up the structure himself just in case they say no
9 because he's got to cover what's happening with Mr. Sorenson, he
10 says, you handle it. This is whatever, it's a state senator
11 from Iowa, you handle it. You want to pay him, you pay him.

12 Last time, no more, don't pay anymore, Dimitri. And
13 Kent's bill, pay? I mean, if he's part of this structure, if
14 he's part of the payment structure, Dimitri Kesari would not
15 have to say, this is Kent's bill, should I pay it. Because if
16 he's part of the conspiracy, he's joined in the conspiracy, if
17 he's trying to hide things from the FEC and he's trying to code
18 things, he would not have to say, Kent's bill, pay.

19 So let's talk about the elements of the case. The
20 government sort of glossed over these, but the elements are what
21 matters. The elements are the crime that they're accused of and
22 Count 2 -- I start with Count 2 because the conspiracy is just
23 an agreement to commit Counts 2, 3 and 4. The defendant has to
24 voluntarily and intentionally cause a false entry into a
25 document, cause a false entry. And we can argue about whether

1 or not paying ICT as sub vendor, paymaster is false, whether or
2 not audiovisual is the right code or not. You don't have to go
3 there with Jesse Benton. You don't have to go there because you
4 just have to show that he was trying to impede, obstruct or
5 influence the proper administration of a matter, that he was
6 voluntarily and intentionally doing something to enter a false
7 record, and Jesse Benton isn't. That's not what Jesse Benton is
8 doing.

9 The next count, Count 3, we have the elements that,
10 again, you can just rest on Jesse Benton has to knowingly and
11 willfully be causing the false reports. Trying to break the law
12 is the language, trying to break the law. We just don't have
13 that here. Again, whether or not it's false or not, he's not
14 trying to break the law.

15 Count 4, knowingly and willfully causing the filing of
16 the expenditure reports that are false and it was material to a
17 matter within the jurisdiction of the Federal Election
18 Commission. It's a material fact that is supposedly
19 intentionally and falsely entered into the reports that he never
20 saw and never generated, that it was a material fact.

21 So what do we know about what it means to be in a
22 conspiracy? So we have a conspiracy to -- you have to have an
23 agreement to commit all of these crimes, Counts 2, 3, and 4.
24 You have to voluntarily and intentionally join the agreement.
25 You have to know what the purpose of the agreement is, and that

1 purpose has to be to break one of those laws, to break the FEC
2 laws, so an agreement to break the FEC laws. And while the
3 agreement was in effect, someone has to do something to further
4 it. What they also tell you about conspiracy is what it's not.
5 A conspiracy -- a person who has no knowledge of a conspiracy
6 but happens to do something like "yo handle," like "yes approve,
7 last time," but doesn't know the purpose of the conspiracy or
8 the structure or how they're entering the records into the
9 campaign's reports, somebody who happens to act in a way that
10 advances someone else's plan is not a member of the conspiracy.

11 So let's talk about some of the phrases, willful. He
12 has to willfully have the purpose to disobey or disregard the
13 law. He must act with the intent to do something he knows the
14 law forbids, that he knows the law forbids.

15 Now, you heard from Ms. Bachmann's staff the structure
16 is what's used, you pay one person, they pay the subcontractors.
17 What they did with this is what the campaigns do. They pay
18 companies to pay other people. And knowing that someone is
19 getting paid through a company is not the same as willfully
20 disobeying and disregarding the law. It is not acting with
21 intent to do something that he knows the law forbids.

22 So what is a false statement? Something that's untrue
23 or effectively conceals or omits a material fact. You can talk
24 about whether you think paying ICT as a paymaster to pay Kent
25 Sorenson the way the Bachmann Campaign did it is false or not.

1 But what does material mean? Material means a fact that would
2 naturally influence or is capable of influencing a decision of
3 the agency, naturally influence or capable of influencing a
4 decision of the agency. We have to have a willful violation to
5 cause the agency to do something that they wouldn't have done.

6 So what agency are we talking about? We're talking
7 about the Federal Election Commission. You heard from Michael
8 Hartsock. They won't even tell you what the standards are. You
9 have to be willfully violating a standard that they won't tell
10 you what it is. And they give you adequate purposes that you
11 can use and they give you inadequate purposes. Let's go back to
12 adequate purposes. I mean, you know what's not on adequate
13 purposes? Endorsement. You know what's not on adequate
14 purposes? Robo calls. They're also not on inadequate purposes.
15 But if you were going to, if you were going to try to hide
16 something in the FEC and that would be your purpose, if that was
17 your purpose, I mean, let's choose one that is already adequate.
18 Let's not choose one that's not on either list. I mean, they're
19 not exhaustive so you can use audiovisual; but why would you
20 choose one that's not automatically going to be adequate.

21 And the ones the government say when they do, when
22 they try to imply what it should have said, those aren't on the
23 list either. It's not like they can say, I paid ICT for Kent
24 Sorenson. That's not going to be sufficient. It can't be I
25 paid ICT for endorsement, not paid ICT for political consulting.

1 Consultant, consulting, consulting service, none of those are
2 adequate. In fact, you can't use those.

3 So when he's asking Agent LoStracco did he put
4 political consulting down, well, of course not, because it's not
5 an adequate purpose, and you can't put that on the FEC reports
6 and we know that because it's public. The few that they do tell
7 us excludes consulting. Not only that, Kent Sorenson is not
8 consulting, he's not telling them what to do with policy, he's
9 not consulting to the campaign, he's not talking to Jesse Benton
10 ever, much less about the way that Ron Paul is going to win the
11 election. That's not what Kent Sorenson is doing. He's not a
12 consultant.

13 Now, I call this the chocolate candy bar instruction.
14 I'll explain here in a second. The judge has told you you can
15 believe all of what a witness said, part of what a witness says,
16 or none of what a witness says. And I would submit to you
17 there's a witness that the government puts on the stand that
18 you -- if there's ever a time when you can disregard all of what
19 a witness says, it's Kent Sorenson because Kent Sorenson -- I
20 don't even know where to start with Kent Sorenson. I don't know
21 where to start. I mean, the government even asked him is it a
22 good lie or bad lie because they have to try and distinguish.
23 They have to try and distinguish good lies and bad lies.
24 There's no such thing as a good lie or a bad lie. There is not.
25 And Kent Sorenson is a pro at it. That's all he does.

1 You can go all the way back to February of 2011
2 when -- I mean, he never takes any blame for himself. He always
3 says it's someone else's fault. When the head of the Republican
4 Party, A.J. Spiker said, yeah, Kent Sorenson told me that Newt
5 Gingrich offered him \$8,500 a month. Do you guys want to match
6 that? He's lying as far back as February of 2007. He continues
7 his lying through October and through this trial.

8 Remember, we talked about the Aaron Dorr memo, did he
9 see it, did he not see it, did he approve it, did he not approve
10 it? Who knows.

11 How about the time when he sent Alfred Pennyworth when
12 he said he used, but, oh, I may have sent that, I may not have
13 sent it. Maybe I did, maybe I didn't. You're putting words in
14 my mouth. I don't know if I saw it. I might have.

15 This guy can't answer a question, he can't answer a
16 question. Maybe I was Ben Eastman, maybe I wasn't. Maybe I was
17 Alfred Pennyworth, maybe I wasn't. He always blames other
18 people. He blamed A.J. Spiker. He blamed Aaron Dorr for the
19 Aaron Dorr memo. He blamed Chris Dorr for the Alfred
20 Pennyworth. He blamed his wife for taking the check. He blamed
21 his lawyer three or four times throughout this trial, that it
22 was my lawyer's fault that I was lying. He blamed Michelle
23 Bachmann for saying something untrue about him on the news. He
24 blamed alcohol and his memory. He blamed everything really
25 except himself. And, you see, he lies to people when he does

1 things wrong, like he's blaming Jesse Benton now.

2 You can disregard completely someone's testimony. You
3 see, I call it the chocolate bar. I call it the chocolate bar
4 instruction because it reminds me of a story I heard one time
5 about a little girl handing her brother a chocolate bar and
6 there were maggots in this. There were maggots in the chocolate
7 bar, and the little girl was like, oh, don't worry about it, you
8 can eat around those, just brush them off. This part over here
9 it's truthful, it will be fine. I mean, you can rely on some of
10 it. Just be careful.

11 You cannot brush off Kent Sorenson's lies. You cannot
12 eat around the maggots that are infesting every word that man
13 says. You just can't. The judge has said you can do it, throw
14 out his entire testimony. He is not trustworthy in a room like
15 this. Not in a courtroom, not when someone is going to be
16 convicted of a crime on his word, on his word? He said I'll
17 bleed for you. That means that I knew that I had a deal and
18 that's why I got \$33,000 because he said I bled for them. You
19 can't do it on this man's word.

20 Now a couple of times the government asked questions
21 like, isn't it equally possible, isn't it possible that, isn't
22 it possible? You see they have to prove something beyond a
23 reasonable doubt, and you can actually use your own reason and
24 common sense to make a conclusion about what happened in this
25 case.

1 Let me tell you one of those reasonable conclusions
2 about what happened. One of those reasonable conclusions is
3 Dimitri Kesari made a mistake when he gave a snake a check, and
4 that was a mistake, not that these guys knew about it. He gave
5 Kent Sorenson someone who would do anything for \$25,000. He'll
6 lie to everyone for \$25,000. Imagine what he'll do to save
7 himself some years in prison.

8 He got this check and he started blackmailing Dimitri
9 Kesari to get more money out of the campaign. You see, he took
10 the check to Michelle Bachmann, he took the check to Michelle
11 Bachmann and her people. Why? Not to get them in trouble, but
12 because he is trying to negotiate. He's, like, who's the
13 highest bidder, who gives me the most, I'll go to bat for that
14 person. And it didn't work.

15 And so then he screwed up his job with Michelle
16 Bachmann. He screwed up with these guys because he went on the
17 news and said I wasn't offered any money. And they were, like,
18 you're an idiot. He screws up. But he starts latching onto
19 Dimitri Kesari because this kind of check can hurt someone. It
20 doesn't show up in the FEC reports. It doesn't show up as a
21 payment from the campaign because it wasn't a payment from the
22 campaign; but it sure looked political and so he starts
23 blackmailing Dimitri Kesari. This a reasonable conclusion from
24 this evidence. And how do we know that? Dimitri Kesari didn't
25 say, we need to pay Kent Sorenson. He doesn't say, here is Kent

1 Sorenson's invoice. He doesn't say, okay, we got a deal. He
2 said, I need a wire, I need a wire.

3 How else do we know that there's not a deal with this
4 check? Dennis Fusaro, phone call January 2, 2012. Dennis
5 Fusaro corresponds with Mr. Sorenson. Thank you, Mr. Fusaro.
6 So what does it tell us? January 2, 2012, well, I'm going to
7 keep the check as leverage. Do you think I should hold onto it
8 or do a deal, should I flaunt it or do a deal, not I'm waiting
9 for my check, not I'm waiting for the campaign to make up the
10 money, not that. I'm holding onto it so I have something over
11 him, I have something over Dimitri Kesari.

12 And he responds with, I guess you're just not going to
13 work for anybody, not that you're already working for them, not
14 when is the campaign going to make good on that check. You
15 know, Dennis, I honestly don't know what I'm going to do.

16 I'm going to tell you what he does. He is -- whatever
17 he says he is in financial trouble, and you can tell that. The
18 important part of these bank records is not the deposits but the
19 beginning balances. It is \$29.69 on February 1, 2012. Dimitri,
20 remember that check? Here is an invoice. Hey, Dimitri,
21 remember that check? What are you going to do about this
22 invoice? Dimitri, I need \$33,000 that I'm going to spend in a
23 month. Oh, Dimitri, remember that check? I need another
24 payment.

25 So really happened with Bachmann? She already knew he

1 was a money grubbing, shakedown artist. These guys had some
2 time to learn it still because he was telling them she was going
3 to make him chief of staff. No, she wasn't. He wasn't trying
4 to be nice to her. He tried to take this check to get a job
5 from her in the future when her campaign was dying and get her
6 some money, and when he didn't do that, it fell on his face.
7 And Ms. Bachmann was like, no, see ya.

8 That's what happened with Ms. Bachmann. And how do we
9 know that? Hey, Dimitri, I need this ASAP because I have \$29 in
10 my checking account, hope you understand. Wait. Check. Then
11 you see January 24th, here is my invoice. And Dimitri is like,
12 yeah, I need to get this invoice taken care of. Notice Jesse
13 Benton is not on it, John Tate is not on it. This \$33,000
14 thing, they are not on it.

15 What's next? Sorenson says to Dimitri Kesari --
16 Dimitri is like, I paid you that first time. Sorenson says to
17 Dimitri, don't go dark on me, I still need money. I have a deal
18 with Dimitri for six months, don't make me tell them, don't make
19 me tell everybody what you did with that check, Dimitri.

20 What else do we have? We have perhaps the best
21 testimony of the trial. Dimitri actually tells his brother, who
22 tells Mr. Izon, he needs to hire him because there are problems
23 within the organization, not need to hide it because of the
24 public, not hide it because of the FEC. I have problems within
25 my own organization and I'm lying to my bosses, and I have a

1 specific person that I need to get paid and the campaign is not
2 in favor of paying him how much money I need to pay him to get
3 that check.

4 You know they put up the thing about it looked
5 suspicious that on August 7th those calls went out when the
6 Dennis Fusaro recording got leaked, and the Dennis Fusaro
7 recording said, oh, there's a \$25,000 check out there. What are
8 you going to do? Dimitri's fingers are all over it. Dimitri is
9 registering the call. What would be suspicious? Not them
10 calling him and saying like, dude, what is this, what is going
11 on? What would be suspicious? If there were no records and
12 there were no phone calls, and they were like, oh, shoot, we
13 better go on radio. Do you know how long it takes to be like,
14 dude, check? One minute. You gave him a check? That takes one
15 minute on August 7, 2013, when they hear it from Dennis Fusaro.
16 It would be suspicious if that didn't happen, not that it did.

17 You see the government has to prove beyond a
18 reasonable doubt using evidence that is so convincing that a
19 reasonable person, after careful consideration, would not
20 hesitate to rely and act upon it in life's most important
21 decisions. And they just can't connect it up without Kent
22 Sorenson because without Kent Sorenson making up these things
23 about, I'll bleed for you and, yeah, they knew about it and
24 there was a secret meeting, without Kent Sorenson, what they
25 have is proof that Dimitri Kesari is lying to his bosses about

1 how much he's paying Kent Sorenson because he wrote him a check
2 that they didn't know about from his own business. And that's
3 why he needed the wire because Kent Sorenson might catch it, and
4 that's why he needs to figure out the structure so these guys
5 can't figure out about it, not the FEC, but so these guys can't
6 figure out about it. That's why he needs to figure out a way to
7 get that \$33,000 to Kent Sorenson back in 2012.

8 Now, it's at this time of the case where I get
9 nervous. I don't usually get nervous; but I get nervous at this
10 time because the other defense lawyers are going to get to talk,
11 Mr. Kesari's lawyers are going to get to talk and the government
12 gets to talk again, and I'm not going to say anything again.
13 And if they put up a phone record, I'm not going to be able to
14 point out why they're calling each other or put up other
15 alternative phone records or highlight why it is that what
16 they're saying just don't hold water, why it is that they're
17 taking things out of context. I don't get to say that again.

18 You know they make a cloud of dust and the check --
19 the check is not good. They don't get to address it anymore.
20 And maybe you're thinking, ah, it's possible it could be one way
21 or the other. Maybe he did know. Maybe he is careful like they
22 say. Maybe he did just this once say, I'll bleed for you.
23 Maybe. If you can't decide it's possible -- and we really don't
24 want you to be thinking that, but it's okay because maybe what
25 might have happened, what could have been said on the phone

1 call, what probably happened isn't good enough. It's not good
2 enough in this room. It's not good enough in the United States
3 of America because they have to prove it beyond a reasonable
4 doubt, using evidence that you would rely upon in your most
5 important decisions of life, and that just cannot be Kent
6 Sorenson.

7 So for those reasons, we're asking you to find Jesse
8 Benton not guilty on each of the counts.

9 Thank you.

10 THE COURT: We'll take a 20-minute recess and begin
11 again in 20 minutes.

12 Thanks.

13 (Recess at 10:44 a.m., until 11:03 a.m.)

14 THE COURT: Please be seated.

15 Mr. Tate, you may make -- Mr. Mills, you may make
16 Mr. Tate's closing argument.

17 MR. MILLS: Thank you, Your Honor.

18 Good morning, everybody. Welcome back.

19 I'm going to disappoint you because I'm not nearly as
20 good as the last two actors that you saw; but what I am going to
21 try to do is have a conversation with you about what the
22 evidence in this case shows and what it doesn't show. And I
23 would like to start with when I was a little kid -- and I don't
24 know how many of you learned how to read by reading Sherlock
25 Holmes. I had to read them all. My grandmother was a school

1 teacher, and I had to read them all. They blended together in
2 my mind; but one thing that stands out is I remember Sherlock
3 Holmes scolding Watson, his assistant, when he said evidence
4 first, theory second. Evidence first, theory second. And you
5 need to keep that in mind. And if you watch a lot of the crime
6 drama CSI, that's what they teach, evidence first, theory
7 second. Evidence drives the conclusions.

8 You heard Agent LoStracco during this trial talk a lot
9 about the government's theory, and you've heard a lot of
10 arguments today about what certain things mean; but their
11 theories and their arguments, they're not evidence, and when you
12 go back and deliberate, please focus on the evidence and what
13 the evidence shows and what it doesn't show and not the theories
14 and the arguments. It's the evidence that should drive your
15 conclusion.

16 You heard Mr. Cooney say follow the money. That's a
17 misdirection. This case is not about following the money.
18 There's no question where the money went. This case is about
19 whether the unknowing use of what the government contends is an
20 inadequate label on FEC reports is enough to put a man in jail.
21 That's what the case is about. It has nothing to do with money.
22 The money was accurately reported on the FEC. Every amount that
23 the campaign paid to ICT was accurately reported on every one of
24 those forms. It's not about following the money. There's no
25 dispute as to that. Okay. It is about the labeling of the

1 expenses. That is what is at issue here, and that is what you
2 have to focus on. Follow the label. Where did the label come
3 from? Did John Tate have anything to do with it?

4 And what's really interesting is you've heard two
5 weeks of evidence, but the one thing you have not heard from the
6 government, what's the label that should have been on there?
7 Have you heard any evidence from that? The testimony from
8 Mr. Hartsock was almost laughable. Here is what happens, we get
9 a report, no human touches it. It gets processed in some
10 mysterious way he couldn't describe and is published within a
11 day or two. That's what Mr. Hartsock said. And then when we
12 showed him the list of adequate and inadequate labels, he said,
13 yes, those are published on the Internet, but that's not all.
14 We have secret standards that we're not going to tell you about.
15 We have other labels that we allow but we don't tell the public
16 what those are. Okay. So you're forced to decide this case
17 based on secret law, and that's not the way we do it in this
18 country and it never has been.

19 This is the way I started my presentation two weeks
20 ago. What is this? What is it for, who is it? Why do we keep
21 paying them? The government would have you believe that those
22 were questions asked by John Tate six months after he's been in
23 a conspiracy to hide these payments. That's the government's
24 theory of the case, and it's coupled with the theory that he
25 forgot not once but twice, and the forgot theory is really hard

1 to swallow. There's no evidence that it took until sometime
2 later on June 25th that he was ever aware of any connection
3 between ICT and Kent Sorenson, zero, zero. There's nothing on
4 that. And those questions simply cannot be asked by a man who
5 has been involved in a conspiracy for six months. It makes
6 absolutely no sense.

7 How do we know that? I told you in the opening
8 statement, February 16th is the day that you really need to
9 focus on in this case because that's the day -- let's step back
10 in time a little bit, about what we know in this case and what
11 we don't know. We know that ICT was paid \$38,125 on February
12 the 8th. We know that. That's the date Fernando Cortes
13 requested the wire. It's the date that's reported in the FEC
14 report. It's the date that's reported in that big spreadsheet
15 you spent so much time on and the government somehow didn't
16 discuss it today. We'll discuss it in a few minutes.

17 So the date is verified in three different places.
18 What's the date on this e-mail? February the 16th.
19 Inexplicably Mr. Cortes is listing a series of outstanding
20 invoices. One of them is the \$38,125 payment to ICT that's
21 already been paid, so I don't know what to make of that. We do
22 know that John Tate -- that neither John Tate nor Jesse Benton
23 approved that February 8 invoice. It went out on Mr. Kesari's
24 word.

25 And so with Mr. Cortes you have one of two things, and

1 I don't know what it is. I don't think anyone else does.
2 Either he forgot, either Fernando Cortes forgot that he paid the
3 \$38,000 invoice or he's belatedly trying to get his boss's
4 approval because he realized he just sent out a \$38,000 wire he
5 didn't have approval for and he's trying to get it. And you
6 know what? He doesn't get it. Because John Tate's response is,
7 I have no idea what ICT is. And there's no evidence he ever
8 approved that, ever approved that payment, and that's the bulk
9 of the payments to Kent Sorenson. John Tate doesn't know
10 anything about it. He doesn't know what it is on February 16th.
11 He doesn't know what it is on June 25th. Those are the facts.

12 The contention that John Tate forgot is an argument,
13 is a theory. There's no evidence to support it. These are the
14 facts.

15 Now, when you evaluate the evidence, you evaluate the
16 witnesses, and I think in this case you have to evaluate the
17 government. One of the things you're going to see attached to
18 the jury instructions are a list of overt acts that the
19 government has included in its charges against Mr. Tate, and
20 there's two I want you to pay particular attention to. One is
21 an overt act that says on February the 7th, Mr. Tate approved
22 via e-mail, via e-mail, so very specific, the \$38,125 payment.
23 Okay.

24 This is their support for that. No idea. Ask him.
25 Did Jesse get Kent paid? No idea. Ask him.

1 Now, in evaluating evidence you have to decide whether
2 any of this makes sense. According to Mr. Cooney, there's been
3 a six-week old conspiracy by this time. Mr. Tate is really
4 concerned about being careful. And as Ms. Campbell much more
5 eloquently than I pointed out, who asks this cavalierly, if
6 you're in this kind of conspiracy, and is there any surprise
7 that Kent Sorenson wanted to get paid? He just got back from
8 South Carolina. There's a shocker. He flew to South Carolina
9 for four days to do a bunch of events for Ron Paul and he wants
10 to get paid. That's a shocker. But is this approval? The
11 answer is no is not my argument. Agent LoStracco was questioned
12 about this. Is this expressive approval? Answer: No. Is this
13 implied approval? Answer: No. Is this tacit approval?
14 Answer: No. It's not approval as that term is used in the
15 English language. The statement that you're going to take back
16 with you in the indictment, which is an official government
17 document, is demonstrably false, and that's the kind of
18 allegations that the government has to make to make a case
19 against Mr. Tate.

20 February 8th, you'll see the wire. Fernando Cortes
21 and Dimitri Kesari are on that wire. Mr. Tate is not.
22 Mr. Benton is not.

23 February 16th, we just saw that. I don't know who
24 Interactive Communication Technology is.

25 And then the next one you need to focus on is

1 February the 22nd. It's an incredible allegation. It says on
2 that date Mr. Benton and Mr. Tate caused to be reported to the
3 FEC the \$38,125 wire. The government's proof of that is a
4 one-page e-mail and a 77-page report written in micro type that
5 was sent to those two gentlemen on the day of the Arizona
6 debates that they're probably reading on their iPads or iPhones.
7 I couldn't read it when it was on that screen, okay, and that's
8 the government's argument about causing to be filed.

9 And so when you look at stretches like that, it is
10 broken truth. It's not a stretch. It's not even remotely
11 close. It's just false. And it's in your jury instructions.

12 You can't convict somebody when the government is
13 making false statements about them, that's good. But it should
14 make every one of you think about whether it could be you in
15 that chair sitting back there.

16 MR. COONEY: Objection.

17 THE COURT: That's sustained. That's an improper
18 argument.

19 MR. MILLS: Okay. Let's take a look at other
20 arguments about it. The December 28th rally at the Iowa State
21 Fairgrounds, is it remarkable that John Tate and Jesse Benton
22 and Dimitri Kesari are at a Ron Paul rally? It's five days
23 before the Iowa caucuses, six days before the Iowa caucuses.
24 They're the lead guys in the campaign. They made it look like
25 it's a 7 Eleven robbery. They've got a grainy videotape. It's

1 being filmed by C-SPAN and the leadership of the campaign in
2 Iowa on the eve of the Iowa caucuses. It is proof of absolutely
3 nothing.

4 And what's remarkable, Mr. Sorenson couldn't even
5 remember if Mr. Tate was there until four-and-a-half years after
6 the event he's presented with the C-SPAN video confirming that
7 he was there, and then he goes, oh, I do remember he was there
8 now, and then he remembers a whole bunch of other things; but
9 until that point, Mr. Sorenson couldn't even remember that he
10 was there. It proves nothing.

11 Phone calls on December 29th, are those remarkable? I
12 don't think so, I don't think so. It's -- the leadership of the
13 campaign, they talk to each other every day. It would be
14 remarkable if they did not talk.

15 Where is the agreement here? That's what you have to
16 ask. That's a really important question, and the agreement is
17 not to pay Mr. Sorenson, it's not to delay paying Mr. Sorenson.
18 You heard lots of testimony, it's okay to delay paying a bill.
19 The campaign had about \$135,000 cash on hand on December the
20 28th or 29th. They had over a million dollars in invoices.
21 They delayed paying a lot of people. It shows up the next time
22 that you report that invoice.

23 So it's not paying Mr. Sorenson, it's not delaying to
24 pay Mr. Sorenson. That's okay, too. Where is the scheme to
25 hide this and where does Mr. Tate come into this? Where is the

1 evidence that these guys got together and said this is what we
2 need to do? And the answer is there isn't any. It's an
3 argument. It's an argument based on the defense of December
4 28th and 29th, but there is no evidence. They're saying because
5 these guys were in contact with each other, there must have been
6 an agreement. If there was any agreement, the most it was was a
7 decision to first pay a bill and then not pay it. There was
8 never an invoice supporting it, and you can't -- this case is
9 not about the nonreporting or the misreporting of an invoice
10 that was not paid. It just doesn't make any sense.

11 So you have to have -- you have to come to the
12 decision they made an agreement to do this some other time.
13 When was that? Where is the evidence of it? There is no
14 evidence of it, at least with regard to Mr. Tate and Mr. Benton.
15 There's lots of evidence with regard to Mr. Kesari.

16 Also the evidence is, you know, does this make any
17 sense? I told you at the beginning of this case Mr. Tate was
18 always okay with paying Mr. Sorenson what they perceived to be
19 the fair market value for his services. I don't think there's
20 any doubt about that. They were never okay with paying him any
21 up front money. They just never were. There's no evidence that
22 they were ever okay with that. In fact, there's lots of
23 evidence, all of the evidence, in fact, that they were not okay
24 with that. And so when did that change? You have to ask
25 yourself when did that change. Kent Sorenson said when he

1 showed up at the Iowa Fairgrounds, he thought the deal was 8,000
2 a month. That's what he said. That's what he said because he
3 thought that was the deal that was on the table even though he
4 knew it was off the table because Jesse Benton had said, F him,
5 we're not doing this. And so where is the agreement?

6 I'll tell you what motive is. Kent Sorenson was just
7 duplicating the scheme that he had with Michelle Bachmann's
8 campaign. This is Kent Sorenson's own words, and we know from
9 Kent Sorenson's own mouth, through Andy Parrish, that he had an
10 almost identical setup with the Bachmann Campaign. He was the
11 Iowa Campaign Chair. But he didn't work directly for the
12 Bachmann Campaign. He was a contractor to Guy Short's company,
13 C & M Strategies. Why did he set it up that way? To hide it
14 from the FEC? No. His own words, July of 2011, I am unable to
15 bill the campaign due to state senate rules which is why I have
16 been billing Guy's S Corp. with my S Corp.

17 That's the motivation for this scheme. So if there's
18 a conspiracy here, it's between Mr. Kesari and Mr. Sorenson to
19 comply with the Iowa State Senate ethics rules. That's what is
20 going on here, and there's no doubt, you have it from the
21 government's chief witness in his own words.

22 And who was the agreement with when we talk about the
23 agreement? I have an agreement with Dimitri that was supposed
24 to last until June.

25 Do you see John Tate's name on that e-mail? Do you

1 see Sonny Izon? You know, Sonny Izon is the testimony -- the
2 government's own witness is the testimony that, frankly, kills
3 the case because what Sonny Izon testified to was that Dimitri
4 came to him and said, I need to set it up this way to hide it
5 from other people on the campaign. He's like the third highest
6 ranking guy on the campaign. Who's he hiding it from? These
7 two guys, right behind you. Those are the only two people he
8 would have to hide them from. And those are Mr. Izon's own
9 words. We have to get into why Dimitri would want to do that,
10 what would motivate him to do something like that; but that's
11 what it is. Sorenson said, I have an agreement with Dimitri.
12 And Mr. Izon said, Dimitri said he had to hide it from people in
13 the campaign.

14 Now, when was this agreement cooked up? Probably
15 sometime around the time that Kent Sorenson went to South
16 Carolina. There's really no evidence of that. Sorenson
17 presents no invoices earlier in January. If he had a deal, if
18 he had a deal December 28th, we know the guy needs money, he's
19 got six kids, Michelle Bachmann is late paying him. All he's
20 got to do is send an invoice January the 1st. Why doesn't he
21 send it the 2nd or 3rd? He doesn't have a deal. Sometime
22 around the time of the South Carolina Primary he gets some kind
23 of deal and that's when it gets cooked up. Is there any
24 evidence that Mr. Tate was involved with that? The answer to
25 that is, no, there is nothing.

1 I would like to spend a few moments talking about the
2 \$25,000 wire in terms of what we know and what we don't know.
3 We know that Mr. Kesari made a request for a wire. We know that
4 there was never an invoice accompanying that request. We know
5 that Mr. Benton and then later Mr. Tate approved it and then
6 they disapproved it, and Mr. Tate used the words "wipe it off
7 the books." There was never anything on the books. Fernando
8 Cortes testified to that. There was no invoice that ever
9 accompanied that. There was never a debt to the campaign.
10 There was never anything to wipe off the books. We know those
11 things, and we know Mr. Kesari sent the request for the wire
12 around the time that Kent Sorenson was endorsing Dr. Paul. We
13 know that.

14 What don't we know? We have no idea what Dimitri
15 Kesari told either Jesse Benton or John Tate what the wire was
16 for. We have arguments based on circumstances as to what that
17 must have been, but there's no actual evidence. And as you
18 evaluate the evidence, you have to decide for yourself whether
19 the arguments make sense. And in doing that, you have to look
20 at the communications around the time and see whether that
21 actually makes sense, and this is the famous "F him" e-mail, and
22 it's sent December 27th. Now, this is the day after Dimitri
23 Kesari supposedly -- not supposedly; he did, he gave Kent
24 Sorenson's wife a check. There's no question about that. Do
25 John Tate or Jesse Benton sound like they have any idea that

1 that had happened? Why would Jesse Benton say F him? He might
2 say that, but he might follow that up with, we just gave him
3 \$25,000, okay, you know, this is absurd. He doesn't say that.
4 John Tate is saying, what can we do to help him out here? He
5 doesn't say, holy mackerel, he just took our \$25,000 and he
6 might not come to work for us? Does he say that? There's no
7 evidence that either of these guys are in the loop about the
8 check the day after. Supposedly they are under the government's
9 theory. The evidence, however, suggests otherwise.

10 This is interesting. You know John Tate knew what
11 time it was. This is an e-mail between John Tate and Jesse
12 Benton, the two guys who are allegedly in a conspiracy to hide
13 this. They're talking about how we're going to project it, the
14 Sorenson arrangement to the world. And in the end is we're
15 going to be short, sweet, and truthful. And the government's
16 theory is that truthful is a code word for something. Where is
17 the proof of that? Do you see any use of code words in any of
18 these e-mails? These guys are blunt talking people. There's no
19 evidence of code in this thing. Truthful means truthful, and
20 there's no evidence for you to consider otherwise. There's
21 arguments and theories, but the truth -- why would he lie to his
22 co-conspirator? It makes absolutely no sense.

23 So when you're evaluating the government's theories
24 and arguments, you have to evaluate them in context of why would
25 people do these things.

1 Here is another contemporaneous e-mail. Well, that's
2 nice because Michelle was paying Kent and Ron Paul is not. John
3 Tate responds, yep. It's contemporaneous evidence. John Tate
4 doesn't know about it. There's no deal, doesn't know about the
5 check. There's no deal. That's the evidence that you need to
6 look at, not a theory.

7 Here's something weeks later: Is Kent Sorenson being
8 paid? No, he is not. He is volunteering as I understand it.

9 Why do we say these things? Did he think the
10 government is going to come back four-and-a-half years later and
11 look at his e-mails and he's covering his tracks? No. Who is
12 he trying to deceive here? Is he trying to deceive Jesse Benton
13 or Dimitri, his co-conspirator? It doesn't make any sense. He
14 doesn't know who ICT is. He doesn't know about the check. At
15 this point in time, he doesn't even know if Kent Sorenson is
16 being paid. Kent Sorenson is probably in South Carolina at this
17 point, and we know that because it's in evidence. He flew there
18 on January 18th. We know that. That's probably what inspired
19 the question, but it's in that time frame.

20 One of the elements of this case that you're going to
21 have to consider is materiality, and you heard Mr. Cooney say
22 the definition of materiality is it must be capable of
23 influencing an agency decision, and the agency in question is
24 the Federal Election Commission, and you have to ask yourself
25 what decision, what decision. These things are automatically

1 published. Where is the evidence of the decision of this agency
2 that was going to be affected by the alleged misreporting here?
3 Where is the evidence? There isn't any. We tried to press
4 Mr. Hartsock on it. I'm not going to answer on advice of
5 counsel, I'm not going to get into that.

6 There's no evidence of what decision and there's no
7 evidence of how they would make the decision. You can't convict
8 any of these guys due to a lack of materiality.

9 There's other reasons this thing doesn't make any
10 sense, that we're going to delay payment until after the filing.
11 What is that? Well, that's maybe a conspiracy to delay payment,
12 but we know from Mr. Hartsock these things weren't even going to
13 get filed until the end of January. And if they delayed it
14 until the first week in January, it's not going to get published
15 until the end of February. By then the caucuses are largely
16 over and the campaigns are largely over.

17 Kent Sorenson doesn't do anything to disguise what
18 he's doing. He's sending the same kind of invoices he always
19 sent to Michelle Bachmann's campaign, consulting services. He
20 has no idea what the right language is. They get to Sonny Izon,
21 he recharacterizes them as production services, and the invoices
22 end up in the hands of Fernando Cortes, and they get
23 recharacterized as audiovisual services. It's like the
24 telephone game. If you take this story through enough hands,
25 you're going to end up with a completely different description

1 of what's going on here.

2 But where is Mr. Tate and Mr. Benton's involvement in
3 this? If you can come up with a better scheme than that -- and
4 I think Ms. Campbell said if you are really going to conspire to
5 throw a spitball by the FEC, you would at least use one of the
6 adequate purposes that the FEC likes.

7 But I think the campaign was willing to pay Kent
8 Sorenson for his services, but why would they pay him for his
9 endorsement? There's no evidence that endorsements have any
10 value, and you heard that from Dr. Paul. He doesn't like them.
11 He doesn't value them. He's been a Congressman for years. He
12 ran for President three times, and the only endorsement he ever
13 cared about was the Hall of Fame pitcher Nolan Ryan's
14 endorsement. That one was the only one he ever cared about.

15 But here is something else you just need to have a
16 little bit of context for. You saw Dr. Paul. He's 80 years
17 old. In 2012 he was 76 years old. He was running for President
18 for the third time. Does anyone in this room -- you all lived
19 in Iowa. Does anyone in this room think that Ron Paul had a
20 realistic chance of being elected President in 2012? Do you
21 think that that's what this campaign was about? And the answer
22 to that is no. Ron Paul has always been about ideas. He said
23 it on the stand. You know, the goal of the campaign was to
24 change the debate, it's about ideas, to espouse the idea of
25 liberty. The government has gotten too big, it's too intrusive,

1 it's out of control. That's his theme. Those are the ideas he
2 was trying to espouse. The chances of him winning were remote,
3 and that's actually a little harder argument to make in 2016
4 because unexpected things can happen as we're seeing this year;
5 but he was a long shot candidate at best. The endorsement of an
6 obscure Iowa State Senator was not going to be a big deal for
7 him in the context of a 50-state campaign. So there was not the
8 motivation here to go do this.

9 You know, Judge Jarvey told you yesterday that the
10 jury instructions you're going to get in this case are
11 complicated, more complicated than normal, and they're going to
12 be especially complicated since you haven't even been told what
13 label there should or shouldn't have been on these invoices.

14 MR. COONEY: Objection.

15 THE COURT: Overruled.

16 MR. MILLS: There's no evidence of what label should
17 be here. This is clearly Dimitri's scheme. He went parent
18 shopping. If you've ever been a kid or had kids, you've either
19 done this or experienced this phenomenon. I'm going to go over
20 to Tommy's house. Mom said it's okay. I'm going to go over to
21 Tommy's house. Dad says it's okay. And he ends up going to
22 Tommy's house when neither parent actually approved it.

23 And Ms. Campbell made this point far better than I
24 can, but that's exactly what Dimitri Kesari did here. He was
25 very parsimonious with the truth. He left people off the

1 e-mails, and you'll have to ask yourself why, and I think we'll
2 get to that.

3 The no work issue in this case is a complete
4 distraction. The evidence is he did work. The government might
5 not like the amount of work that Kent Sorenson did, but it's
6 clear he made television appearances, he appeared at rallies, he
7 made speeches, he flew to South Carolina, he recorded robo
8 calls, he did e-mail blasts. That is work. The government
9 might think that the campaign didn't get enough value for that
10 work, but the government doesn't get to decide what the campaign
11 pays for its work. They're not the judge of that. All that is
12 required under the FEC reports is to accurately report the
13 payments for the work done, and that is what was done here.

14 Mr. Tate is not charged with making a bad business
15 decision or being a poor manager, and even if he was, it would
16 be very difficult to convict him of it since he had no idea what
17 ICT was. Kent Sorenson was doing his thing in Iowa and John
18 Tate is in Virginia. Those are the facts, those are the facts.
19 The work issue is a complete distraction.

20 There's nothing wrong with being a passthrough. The
21 government suggests that this is a strict passthrough
22 arrangement. It's not illegal. Paymaster arrangements are
23 perfectly legal. Sonny Izon kept 10 percent, and one of the
24 invoices had over \$3,000 of the audio equipment on it. So it's
25 less of a passthrough than what Kent Sorenson had with C & M

1 Strategies where the testimony was Guy Short just added \$7,500
2 on his bill. When Michelle Bachmann paid him, he sent \$7,500
3 back to Kent Sorenson. That was a passthrough, but this was
4 less of a passthrough than what was going on in the Bachmann
5 Campaign and what they were seeking to duplicate here.

6 The June 25th e-mail, I have no idea whether John Tate
7 got that first e-mail and neither do you and neither did Agent
8 DeMarco, and those are the facts. The facts are we know that
9 first e-mail was found on Mr. Kesari's laptop. It had metadata
10 in that file. And you remember he said -- he testified that
11 there's this thing called IMAP that syncs all the devices so you
12 know that it syncs with your -- if you send it through your
13 laptop, it will sync with your iPhone, it will sync with your
14 iPad, it will sync with all of your other devices, and that
15 should be true with everybody else in the chain.

16 But he also testified that IMAP has these flags. I
17 showed him the flags. You'll see "/received," "/deleted." None
18 of those flags which should be there are present in that e-mail,
19 and that particular e-mail could not be found on the Ron Paul
20 Campaign server and it was not found on any other devices of
21 anybody else in this case. And so you can make your own
22 decision as to whether that got there or not. There's a lot of
23 explanations. I don't know what happened. But I don't know
24 what happened is not proof beyond a reasonable doubt. It's not
25 even close.

1 The government's agent who was up there he said he
2 can't testify that he even got it, much less opened it, that he
3 has no idea how many e-mails John Tate was getting. He got
4 these two things within 40 seconds, assuming he even got it. He
5 responded to the second one. We have no idea even if he read
6 it; but if he did, so what, so what? It's the first time in six
7 months he's told of a connection between ICT and Sorenson and
8 he's told that it was Jesse's deal with Kent. That's all he
9 knows. Okay. So at that point he knows that Kent Sorenson is
10 doing some work for the campaign that he's previously approved.
11 That's the first time he knows that. Does he have any clue how
12 this is being reported? Is there any evidence that he has any
13 clue how that's going to be reported? Does he have any
14 evidence -- is there any evidence that John Tate knows the
15 relationship between Kent Sorenson and ICT? Is ICT a much
16 different name than C & M Strategies, not any more descriptive
17 of what Guy Short's company did than ICT did.

18 So that's it, and that's the government's best
19 evidence against John Tate is that on June 25th, six months into
20 the alleged conspiracy, he's finally told that there's some
21 connection between Kent Sorenson and ICT. You can't convict him
22 of that. There's no evidence of a conspiracy.

23 Let's talk about Kent Sorenson's credibility for a
24 minute. He hasn't told the same story twice. He's under
25 tremendous pressure because he's waiting to be sentenced. His

1 memory has gotten refreshed from multiple meetings with the
2 government; but as you weigh all of the evidence, the Dennis
3 Fusaro tape pretty much tells it all. Because who is Dennis
4 Fusaro? He's one of Kent's friends. He's not being put under a
5 spotlight by Megyn Kelly. He's not being put up on the stand
6 and having to wait and testify under oath? He's got none of the
7 pressures that a politician would be concerned about. He's
8 talking to Dennis Fusaro in a private conversation, and he's
9 already told Dennis Fusaro about the check, and that is clear,
10 and he's discussing what he's going to do. And what does he
11 say? He says, I don't have a deal, I don't have a deal. Do you
12 think I should give him the check back or should I cash it?
13 Should I hold the check as leverage over Dimitri Kesari to make
14 him do a deal with me? And then he concludes the conversation
15 with, I don't know, I don't know, I don't know.

16 That's probably the only truthful thing you heard from
17 Kent Sorenson. He didn't have a deal on January 2nd. John Tate
18 and Jesse Benton didn't know about the check, but he knew he had
19 leverage over Dimitri Kesari. Dimitri Kesari had made the
20 horrible mistake of trying to help get a job for his friend,
21 things blow up, Dimitri is freaking out, Kent doesn't know what
22 he's going to do, and sometime in the weeks later, they cook up
23 this deal to pay him through ICT and they completely throw
24 fastball by John Tate and Jesse Benton. They get the \$38,125
25 payment right by them, and somehow it even confused Mr. Cortes

1 because he didn't even realize he paid it. You know, that's the
2 February 16th e-mail that evidences it. But there's no evidence
3 that John Tate or Jesse Benton knew anything about that.

4 So that's what you have here, and in Kent Sorenson's
5 own words, he thinks he's going to use the check as leverage.
6 That's what happened. And then you have Sonny Izon -- these are
7 government witnesses. Sonny Izon says, Dimitri told me I need
8 to hide this from two other people in the campaign for political
9 reasons. There's only two people he would need to hide it from,
10 only two people other than Ron Paul. Who else? They're sitting
11 in this room. Dimitri Kesari was being blackmailed. He had to
12 do something for his friend, and that's what he did. And then
13 he went parent shopping when Mr. Benton put the kibosh on it and
14 he blew two more by Mr. Tate by falsely telling him that Jesse
15 had approved it, and that's what happened here. That's what the
16 evidence shows. It's not an argument.

17 Real briefly let's just go over the counts. Count 2
18 is causing a false document. Mr. Tate didn't know about what
19 ICT was. He had nothing to with the invoicing of it. He had
20 nothing to do with FEC reports. He didn't cause any of that.
21 You can't possibly convict him on Count 2. There's just no
22 evidence that he had any involvement in that.

23 The other three counts all have what is known as the
24 knowing and willfully standard, and both of the previous
25 presenters have described what that means. It means you have

1 the ability to either break these specific laws or break a law.
2 What law did these guys think they were breaking? They didn't
3 even know about it. But even if you accept a lot of the
4 government's case, at best this is a conspiracy to help Kent
5 Sorenson comply with the Iowa State Senate ethics rules or a
6 conspiracy of one with Mr. Kesari to hide it from Mr. Tate and
7 Mr. Benton. But there's just no evidence that there was any
8 conspiracy to hide this from the FEC or to otherwise break the
9 law.

10 So as you evaluate the evidence in this case, I hope
11 you'll think about the first document I showed you today and the
12 first time I showed you at the beginning of this case. What is
13 this? What is it for, who is it? Why do we keep paying them?
14 Those words, those questions cannot possibly be uttered by
15 someone who's part of a six-month old conspiracy. The
16 government's case simply does not make sense. Its argument that
17 he somehow forgot twice does not make sense. John Tate was not
18 involved. The government's case against him is horrible. You
19 need to send him home as fast as you can and acquit him of all
20 four counts.

21 Thank you.

22 THE COURT: Mr. Binnall, you may make Mr. Kesari's
23 closing argument.

24 MR. BINNALL: Thank you, Your Honor. May it please
25 the court.

1 Ladies and gentlemen, this is the last time that I get
2 to talk to you in this process, and when I talked to you last
3 week, I started by telling you that the government's case was
4 filled with holes and that they were going to try and fill those
5 holes with unreliable witnesses, primarily Kent Sorenson, and by
6 demonizing my client for things that really aren't in dispute,
7 things that aren't illegal. That's what happened in this case.

8 The government put on a story that was, quite
9 honestly, compelling. There was colored circles and there was
10 highlighting on those, and they're all things that painted my
11 client, Mr. Kesari, in a bad light, and things that maybe if we
12 just asked people on the street if they seemed legal might say;
13 no, but they're not the things, most of those things they
14 demonized him about, that's an issue in the law of this case.

15 So that's what I'm going to chat with you a little bit
16 about today is what's in the law in the case, and I'm going to
17 level with you. Those are a lot of, what I'll call bad facts.
18 The government has a story that is compelling. They say it's a
19 story about a coverup, and their story does show some coverups,
20 it does. And I'll level with you more, their story shows that
21 Mr. Kesari is a part of some of those coverups; but that's not
22 enough to find him guilty beyond a reasonable doubt, saying that
23 there's a coverup.

24 We have to remember what this case is about and what
25 this case isn't about. This case is about the specific crimes

1 that you have in the jury instructions. It's not about Mr.
2 Kesari recruiting Kent Sorenson into the Paul Campaign. It's
3 not about Mr. Kesari wanting to pay Kent Sorenson money, either
4 for work or for endorsement, or for whatever reason you want.
5 That's not what this case is about. That's not illegal.

6 It's not about paying Kent Sorenson too much money for
7 whatever work he was or was not doing. That's not what you're
8 here to decide. He's not on trial for lying to his bosses.
9 He's not. That's not what this case is about. And while the
10 government painted some of Mr. Kesari's actions in a bad light,
11 remember this was a busy and difficult time in his life. Not
12 only is he in the midst of being the deputy campaign manager for
13 a presidential campaign, but this all starts in the month that
14 he loses his mom. So they're painting him in a bad light for
15 this. There are those things going on that maybe make him make
16 bad decisions, not illegal decisions, but maybe some decisions
17 that we don't like that he does.

18 Here is what they've proven. You've heard it already
19 from my colleagues before. Willfulness, it's that jury
20 instruction we're going to talk a little bit more about that I
21 ask you to read carefully. Willfulness, knowing and willful.
22 They didn't prove that Mr. Kesari purposely targeted the Federal
23 Election Commission and that Mr. Kesari -- here is the important
24 part -- was trying to commit a crime, was trying to break the
25 law.

1 A lot of us have heard the phrase "ignorance of the
2 law is no excuse." That is not the law here. Here, ignorance
3 of the law is a complete excuse, not only that but having an
4 inaccurate understanding of the law is a complete excuse. The
5 other jury instruction we're going to talk about a little bit is
6 the good faith instruction, and I'll explain why that's
7 important.

8 And the government has theories, they have a lot of
9 theories, and they're asking you to read between lines, lines in
10 e-mails that are rushed in the middle of a presidential
11 campaign, lines between things that were said or weren't said or
12 trying to get context, and they want you to forget that their
13 theories aren't enough. They have to prove it with evidence
14 beyond a reasonable doubt that Mr. Kesari purposely,
15 intentionally was violating the law.

16 They would have you think that Mr. Kesari was a
17 political operative so he must know what the FEC regulations
18 meant. Where was the evidence of that? The evidence was
19 actually the opposite of that. You heard Mr. Cortes say that
20 there's these differences on campaigns. You have the political
21 side, guys that go out and get votes, the guys that get
22 delegates to go to convention, the guys that work with the
23 voters, the interest groups and all of that. Then you have what
24 Mr. Cortes called the operational side, the guy that sets up the
25 business arrangements, the guys that file the taxes, the guys

1 that file the FEC reports. They never introduced evidence that
2 Mr. Kesari knew what the FEC required, and that is huge in this
3 case.

4 Now, they said that Mr. Kesari was the details guy,
5 and he was the details guy; the details guy not on things like
6 FEC reports but the details guy as far as getting things done.
7 And you heard that nobody micromanaged him. He went out and got
8 things done. And you heard that early on in this process with
9 Mr. Sorenson when he was first -- Mr. Kesari was first moved in,
10 because remember those early e-mails in October Mr. Kesari is
11 not -- and also remember those aren't e-mails that you can hold
12 against Mr. Kesari, the judge's instructions; but when he first
13 comes in, I think when he first comes in on the e-mails he asks
14 if he can go talk to Mr. Sorenson. But they would have you
15 believe that because of that every other step that he took along
16 the way he had to talk to them, to get their permission, and
17 that's just not the evidence in this case. The evidence in this
18 case is that Mr. Kesari is the deputy campaign manager who went
19 out and got things done. And there's no evidence, again, that
20 in the process of getting things done he was out to violate the
21 law.

22 I'm not trying to restore your faith in democracy in
23 this case. I'm not trying to say it was done in a way that will
24 restore your faith in politics. I'm not trying to ask you to
25 endorse Mr. Kesari's tactics or judgment for that period of time

1 when he went and did those things.

2 This case is about those FEC documents and whether
3 they were filed because Mr. Kesari was willfully targeting the
4 FEC and willfully trying to make them false. That wasn't his
5 job.

6 Let's talk about the government's star witness, Kent
7 Sorenson, I lied, I lied, I lied, I lied then. That's what you
8 hear from the words of -- the mouth of the man who they're using
9 to try and put this guy away, somebody's word who has been
10 damaged beyond repair. He told you that he lied about the very
11 facts in this case, but they want you to believe that now he's
12 on their side and they're the ones calling him as a witness,
13 he's miraculously cured. They brought him to justice they say,
14 and because they told him to tell the truth, now he tells the
15 truth. If his word was so good, why did they have to bring him
16 in to meet with them so many times? Mr. Sorenson told you he
17 went in and met with them at least ten times, three or four
18 times since the last time he was under oath in this matter. If
19 he's such a good witness, the story is so straight, why is it so
20 much work? Why do they have to do it so many times? To make
21 sure that everything fits together.

22 Mark Twain said that if you tell the truth, you don't
23 have to remember anything. Perhaps that's advice Mr. Sorenson
24 should have taken to heart. It's hard, it's hard to navigate
25 the canyons and ravines when you lie, think about for him having

1 to remember what he told what group of people, what's supposed
2 to be true, what now isn't supposed to be true, good lies, bad
3 lies. He's lied so many times about this case he probably
4 doesn't even remember what's true. That's why it's so hard for
5 him to get his stories straight, and you can see it.

6 You can see it when he got nervous about the Ben
7 Eastman e-mails, the Craigslist stuff that Ms. Campbell showed
8 him when you see how nervous he got. You could see in his
9 response when he said that she could show him all the e-mails
10 that she wanted, he wasn't going to remember anything. He
11 wasn't going to remember that bygerboy e-mail address, and he
12 proceeded to make excuses for what was in the e-mails.

13 You can see how nervous he got sometimes when he was
14 wondering what lawyers were cross-examining had to prove whether
15 or not what he was saying is true, how he would hedge. And,
16 sure, his story, some parts of his story checked out when
17 there's corroboration. Remember, of course, they had to check
18 out because they had at least ten times to meet with him. Yet
19 at the time when there's no corroboration, when there's nothing
20 else to show whether or not what he was saying was correct,
21 that's the problem. That's where the reasonable doubt comes in.
22 That's where there's so much doubt. And he's in a predicament.
23 He had to come and give the performance of his life because he
24 doesn't want to go to prison very long, and it's the government
25 that decides whether his cooperation was substantial and whether

1 they're going to ask a federal judge to lower his sentence.

2 He's got financial trouble. His house has been
3 foreclosed on. He can't afford to spend much time in prison.
4 He pled guilty a year-and-a-half ago. He still hasn't been
5 sentenced. He, frankly, couldn't give you a straight answer
6 about whether the call with Dennis Fusaro that occurred was true
7 or not true. He told the grand jury one thing, well, maybe he
8 wasn't thinking about the whole thing. And, by the way, I
9 suspect that's one of the truest moments you've ever heard from
10 Mr. Sorenson.

11 Pay attention when he don't think anybody else is
12 looking. He's not talking to the press, he's not talking to the
13 government, he's not talking to the judge or anybody else. When
14 he thinks he's just talking to his friend, he thinks he's
15 leveling with him. He thinks he can get everything off his
16 back, and you can almost hear the relief in his voice when he's
17 talking to Mr. Fusaro in a lot of ways because it's that
18 cathartic moment where he's talking to his friend about what he
19 should do. He says he doesn't have a deal. He says that he's
20 thinking about using it to leverage Mr. Kesari. We'll talk
21 about that in a little bit, but that call is really important
22 because he doesn't think anybody else is looking.

23 As an aside, that's also probably important for
24 Mr. Kesari's conversation with his brother about the interview
25 on politics, all right. He doesn't think that anybody else is

1 looking, so he's saying there's an interview on politics going
2 on.

3 So let's talk about the story with Mr. Sorenson and
4 Mr. Kesari. Mr. Kesari is a political advisor, as you heard
5 that, working with Mr. Sorenson since the first time he got
6 elected to the State Legislature. He's a political ally.
7 Mr. Kesari goes over to his family dinner, when Mr. Kesari goes
8 over as a guest, and Mr. Kesari knows that Kent Sorenson wants
9 to get paid for his work. Remember, Mr. Sorenson told you that
10 his work as a legislator is part time. He only gets paid
11 \$25,000 a year for that. He needs to supplement his income.
12 And then there's that ethics rule. Mr. Sorenson told you it's
13 ambiguous. Well, if it's coming from a PAC, you can't do it;
14 but if it's coming from a candidate committee, you can. But the
15 easiest way is to have it paid through a third party, through
16 the intermediary.

17 And that's what the Bachmann Campaign does. They set
18 up that intermediary organization, and you heard that testimony
19 from the people who helped them set it up that because of
20 Mr. Sorenson, he wanted to set it up to flow through the
21 intermediary.

22 And then you get into October and the feelings -- or
23 the feelers that are kind of put out there regarding the Dorr
24 e-mail, and Mr. Kesari is copied on that. And eventually
25 Mr. Kesari does get brought in, and there's talk back and forth

1 is Mr. Sorenson going to switch, is he not going to switch. And
2 all along Mr. Kesari probably does know that he wants to get
3 paid money if he goes over to the Paul Campaign.

4 And so they have dinner on the night of December 26th,
5 and he admits that he probably told Mr. Kesari about the
6 arrangement that he had with Ms. Bachmann. Here is the other
7 important thing. He tells you that he knows the Bachmann
8 Campaign checked about the law and he doesn't remember whether
9 or not he told Mr. Kesari about that, meaning it's possible he
10 told Mr. Kesari about the possibility that the Bachmann people
11 check on the legality. Remember that willfulness instruction,
12 good faith instruction that we're going to talk about, that's
13 really important there.

14 And there's zero evidence, none, that Mr. Kesari tells
15 anybody else about that check. First person to tell anybody
16 about the check is Kent Sorenson. And it's never cashed. Like
17 you've already heard, there's no FEC requirements about that
18 check at all. Now, Mr. Sorenson says it's not a loan, and
19 Mr. Sorenson said it wasn't paid based on the campaign and,
20 quite honestly, that's probably not that important. I think we
21 know that the check probably had something to do with
22 Mr. Sorenson coming on with the campaign one way or another,
23 that's why it's never cashed, and there's no requirements for
24 anybody to do anything with an FEC payment that's not actually
25 made by the campaign. And we'll never know exactly what

1 happened at that meeting, but what we do know is that while with
2 the check, the smoke that's brought up with that, no law is
3 broken with it. That's not what we're here for with the check.
4 That's what we know. That mystery wire never happens, no
5 obligation one way or the other. We just speculate about what
6 it is or what it isn't, what Mr. Kesari did or didn't tell his
7 bosses, but we know now.

8 Mr. Sorenson does switch. He says that there's some
9 stuff in the code that is said about him still getting paid.
10 And he says that Mr. Kesari -- says something about the FEC on
11 December 29th when they're talking about how to deal with all of
12 this. Well, first of all, there's no reports that have been
13 made before the end of the year. That's an important point.
14 There's no FEC obligations one way or another.

15 Second of all, again, most importantly, this is one of
16 those times where you don't have any corroboration at all about
17 what Mr. Sorenson says. You're just supposed to take his word
18 for it. His word isn't that good.

19 And so he has that call with Mr. Fusaro. He talks
20 about holding it over Mr. Kesari on that call. He doesn't know
21 he's being recorded. He thinks he's talking to a friend. He
22 still wants money from the campaign. He still wants to save his
23 political career, but he's talking about using his leverage over
24 Mr. Kesari. And then there's a period that we don't know
25 exactly what happened from their evidence, and it's their

1 burden. They're the ones that have to show you what happened.

2 But we know eventually Mr. Sorenson does get paid
3 through this intermediary arrangement, and we know Mr. Sorenson
4 says that he is the one that has asked for this arrangement
5 before, and we know it because of the ethics requirements of the
6 State Senate, not the FEC, but of the Iowa State Senate that
7 he's looking to do this. And he wants to get \$25,000, and he
8 wants to get money, as he says he comes up with a deal with
9 Mr. Kesari, a deal where he's holding it over Mr. Kesari's head,
10 the \$25,000 check. Remember, he told you that even Mr. Kesari
11 said, don't cash it, that he said he could probably still go to
12 the bank and cash it anyway. He's holding this over his head.

13 Eventually Mr. Kesari, the evidence is, sometime in
14 the period from the end of December and early January comes up
15 through his brother and then Mr. Izon with the intermediary
16 arrangement, meaning it's probably, very possible at least after
17 that phone call where he is saying he's going to hold it over
18 his head to get a deal. And he says he's willing to do some
19 work, and he does work. He helps with the robo calls, he goes
20 to South Carolina, the e-mail blasts. You've heard about all of
21 that. But he wants to get Mr. Kesari to do a deal.

22 Again, it's the government's burden to show exactly
23 how that is set up and that there's some sort of illegal intent
24 there.

25 So Mr. Kesari sets up a structure where Mr. Sorenson

1 is paid as a sub vendor, the arrangement that Mr. Sorenson asked
2 for. You've heard that it's normal in presidential campaigns,
3 and Mr. Kesari doesn't check with anybody. He's the deputy
4 campaign manager. He doesn't have to. He sets it up himself.
5 He knows that maybe his bosses aren't going to be excited about
6 the idea; but, again, that's not what he's charged with here.
7 That's not -- is it a coverup? Yeah, that might be a coverup.
8 Is it illegal? That's why you're here. No.

9 There's an e-mail to his brother for video services
10 for 33k plus, okay, another one of these e-mails sent in the
11 middle of a presidential campaign that is rushed. We know that
12 his brother has video services. We know that his brother did
13 some work for the campaign in December. We don't know exactly
14 what Mr. Kesari meant by video services. We don't know what he
15 meant by 33k plus. Here is what we do know. There's no invoice
16 that comes through that talks anything about video services, not
17 from Pavlo Kesari, not from Sonny Izon. So video services, no
18 matter what was in Mr. Kesari's head, which we just don't know,
19 never ends up making it into the pipeline that goes on to decide
20 from Mr. Cortes how things are reported by the Federal Election
21 Commission.

22 And let's talk about Mr. Cortes. It's his
23 responsibility to code the items and to pass them on to Texas,
24 to the controller and the treasurer in Texas. That's his job,
25 and he's busy. He's got a -- we've seen just a little bit about

1 how many invoices he has to code, and we see -- remember the
2 list of expenses that is sent on on the day of the Arizona
3 Primary, the February 22nd e-mail that's got all of the list of
4 expenses? Remember Mr. Kesari is not on that? And the invoices
5 are vague. It is Mr. Fernando Cortes who picks that 60110 code
6 himself. He picks it. I'm not saying he does it intentionally.
7 I'm saying he was busy, and perhaps he didn't give it as much
8 attention as he should have. He -- there's a phone number on
9 there for a big invoice for Sonny Izon. He's on it. Does he
10 call him? He doesn't. Fernando doesn't call him to check. He
11 doesn't e-mail Sonny Izon. He doesn't call Dimitri. He doesn't
12 e-mail Dimitri. The most he says is at some point he remembers
13 Dimitri saying something about video, but he doesn't give any
14 time frame, so we don't know if it's about this, we don't know
15 if it's about anything, and we don't know if it was before --
16 and that's the important thing here -- before Mr. Cortes coded
17 it and sent it to Texas.

18 Now, in 2013 when the articles start coming out, he
19 sends out an e-mail, and it's pretty clear from that e-mail he
20 doesn't like Mr. Kesari. He thinks pretty poorly of Mr. Kesari,
21 and so he tries to put the blame on Mr. Kesari. He doesn't want
22 to end up in that chair. He's happy to point the finger at
23 somebody else. But remember he said Mr. Kesari is on the
24 political side of the campaign, does the politics, not the
25 operational side of the campaign.

1 Then you get to August of 2013. Mr. Kesari is
2 recruiting Mr. Sorenson to run for a new office, this time U.S.
3 Senate. He's recruiting other people, too. You heard he's also
4 talking to a guy in South Carolina by the name of Lee Bright.
5 And then the news comes out about Mr. Sorenson, and it involves
6 Mr. Kesari, and remember that press release that Mr. Sorenson
7 sent to Mr. Kesari called the check? Mr. Sorenson says pretty
8 much everything in there is a lie, and he sends that to Mr.
9 Kesari. Does it get Mr. Kesari's attention? Yes.

10 And the news come out. So, of course, Mr. Kesari is
11 talking to other people about the news that came out about the
12 check, which is in the public eye for the first time. The
13 \$25,000 check for the first time is in the public eye. But
14 there's no evidence about what they're talking about, and
15 there's no evidence that what happens next with Mr. Kesari going
16 to Iowa, whether it be through Nebraska or Des Moines or Cedar
17 Rapids or whatever airport he flies into -- they're not all that
18 far apart really. There's no evidence about what happens there
19 other than the word of Kent Sorenson.

20 So what happens then? We don't know because we have
21 to rely on the word of Mr. Sorenson. And Mr. Kesari is still
22 trying to help Mr. Sorenson. He's still trying to save his
23 political career. There's no reason to think this is anything
24 more than a damage control trip, and if there's issues about
25 recording, which, again, we have to trust Kent Sorenson's word

1 on, they already said that they're afraid of recordings because
2 that call of Dennis Fusaro just came out. That was a political
3 damaging call. That doesn't mean that they were involved in any
4 illegal conspiracy. If it's a coverup, it's a political
5 coverup, not an illegal coverup, not -- maybe things about
6 saving political jobs and careers, not about any dispute of the
7 law.

8 Now, let's talk about the jury instructions. Jury
9 instruction No. 7.

10 Thank you.

11 A person acts willfully if he acts knowingly,
12 purposely, and with the intent to do something the law forbids.
13 Remember, you have to know that you're violating the law.
14 They've talked about -- my predecessors have talked to you about
15 this quite a bit, but this is perhaps one of the most important
16 jury instructions because it shows that they have that burden to
17 show that they knew they were violating the law, which they
18 tried to gloss over because they have no evidence on it.

19 Then we talk about FEC reporting requirements. And we
20 go to the next page, which is page 16 of your instructions, and
21 we see that the FEC reporting requirements do not prohibit a
22 campaign from reporting payments to a vendor of services who in
23 turn pays sub vendors who are not separately listed in the
24 report. Now, if you're a little bit confused about what counts
25 as a sub vendor, what doesn't, that's what we have as far as

1 what the law is. And remember a misunderstanding of the law
2 means he's not guilty.

3 The reporting requirements do not prohibit a campaign
4 from paying someone for an endorsement. That's not what we're
5 talking about here. That's not an issue. That's not why we're
6 here.

7 And, finally, they do not require the campaign to
8 abide by state legislature ethics rules. In other words, if you
9 think there's a possibility -- just a possibility, remember,
10 their burden, not ours -- that Mr. Kesari is trying to work with
11 Mr. Sorenson to target the Iowa State Senate and not the FEC,
12 they're not guilty.

13 Then there's this innocuous one on the bottom that
14 they tried to brush off -- remember, the judge said you have to
15 look at all of these instructions -- the on or about where it
16 says, although it is necessary for the government to prove
17 beyond a reasonable doubt that the offense was committed between
18 dates reasonably near the dates alleged in the indictment, it is
19 not necessary for the government to prove that the offense was
20 committed precisely between the dates. Reasonably near beyond a
21 reasonable doubt. So what does that mean? They would have you
22 believe that this is just a typo, but this is a case about
23 paperwork. You would think that the government would think that
24 accuracy was important.

25 The very last overt act says in or about August 2013,

1 and then it gets down at the end for a check December 26, 2012.
2 They have to prove beyond a reasonable doubt that it was
3 reasonably close to that date, the check. They haven't done
4 that. All of their evidence is December 26, 2011. You have to
5 abide by all of the instructions, including the on or about
6 instruction, that's gone.

7 You don't have to reach that level of technicality to
8 find these gentlemen not guilty, but it makes it a little bit
9 easier.

10 Instruction No. 8, good faith. If we think it's
11 possible under this one, possible the defendants acted in good
12 faith sincerely believing themselves to be exempt by the law
13 from the conduct constituting any of the above charges, then the
14 defendants did not intentionally violate the law -- I'm sorry,
15 violate a known legal duty, that is, the defendants did not act
16 willfully.

17 Now, good faith is kind of a weird term for me to be
18 using here because I'm not saying that he necessarily acted
19 honestly. I'm not saying that he acted with a pure heart or
20 good motives or good intentions. That's not what good faith
21 means. It has all to do with the understanding of the law, and
22 here is the important part. It is not for Mr. Kesari to prove
23 good faith. It's the government that has to prove he was not
24 operating in good faith. It's the government that has to prove
25 that he was operating willfully. It's the government that has

1 to prove that what happened wasn't a misunderstanding of the law
2 because if it's a misunderstanding of the law, even the
3 possibility of a misunderstanding of the law, your verdict has
4 to be not guilty.

5 If you think it's possible that Mr. Kesari thought
6 there was a loophole based on what Mr. Sorenson said about the
7 Bachmann Campaign, based on the way that things are always done
8 at the campaign, whether or not it was technically accurate, but
9 if you think it's possible he thought it was a loophole, your
10 verdict has to be not guilty.

11 So let's talk about the charges against Mr. Kesari.
12 Remember, he's not charged with No. 2 -- Count 2. He's charged
13 in Count 3, and look at the instructions there. Again, you see
14 the willful. It has to be that he intended to break the law.
15 It can't be that he got a loophole wrong.

16 Same thing with Count 4. Remember, in Count 4 he also
17 had material, right? In fact, they have to prove to you for
18 these counts that all of this was material, that it was
19 important for the FEC, not just that they pushed a button, it
20 went on the FEC server and later went on the Internet. Material
21 is a term that's in the jury instructions for a reason. And
22 secret standards aren't what we do in this country when we hold
23 people accountable. You remember that from the good faith and
24 willfulness instruction as well, the secret standards that you
25 heard about from Mr. Hartsock. They don't even know what

1 exactly he can and can't do because the FEC won't tell them.

2 How can you willfully violate the law if you don't know?

3 Now let's talk about conspiracy in Count 1, and this
4 is a little bit different for us than for our co-defendants, not
5 on the legal part because we still have a good faith, right, so
6 that still wipes out Count 1 of the conspiracy; but it's
7 different for us because there's two groups of people that you
8 need to look at with Mr. Kesari. You need to look at his
9 relationship with Kent Sorenson, you need to look at his
10 relationship with John Tate and Jesse Benton.

11 Now, there's no conspiracy with John Tate and Jesse
12 Benton about the laws at issue in this case because they don't
13 know exactly what Mr. Kesari is doing. They don't know what ICT
14 is. They don't know ICT and its relationship or not, if it is
15 related or not related in any way to Kent Sorenson. I mean, you
16 have names like DGI, C & M, Saber, all names we've heard in this
17 case, and there's a bunch of others in the record that don't
18 necessarily tie into one name.

19 So Mr. Kesari isn't conspiring with them because if
20 there's a coverup, he's not being exactly forthcoming with his
21 bosses about this, certainly not when it comes to the payment
22 arrangement, what he said, the things that they describe as
23 being illegal. So let's look at his relationship with
24 Mr. Sorenson on the agreement. He does have an agreement with
25 Mr. Sorenson. With their evidence he has the agreement with

1 Mr. Sorenson for the intermediary, but it's an agreement because
2 of the Iowa State Senate Ethics Committee, not because of the
3 FEC. And you read the instruction. If you think it's even
4 possible that that's what happened, that's what it's about, your
5 verdict is not guilty.

6 Now, on top of all of that, if you think that
7 Mr. Kesari doesn't know maybe what the law is, they haven't
8 proven it beyond a reasonable doubt, and the verdict is not
9 guilty.

10 He's the details guy. It's their words. He's setting
11 up details with Kent Sorenson. He's not telling other people
12 about it. And the details go to that Iowa State Senate ethics
13 rule that's ambiguous. It's political. He's not on trial for
14 lying or deceiving his bosses. He's not on trial for not
15 telling them about the way that he set up the organization
16 system for paying Kent Sorenson. He's the deputy campaign
17 manager, and he did this himself because he's being blackmailed
18 by Kent Sorenson and he thought he found a loophole. He
19 believed it was legal, and if you even think that's possibly
20 true, your verdict is not guilty.

21 Mr. Kesari and Mr. Sorenson were trying to get around
22 the state senate ethics rules, and the intent had nothing to do
23 with the FEC. Mr. Sorenson tells Mr. Kesari that this is the
24 way the Bachmann Campaign did it. Maybe or maybe he doesn't
25 tell him they checked it was legal, but it's at least possible

1 that he tells them that it was legal. And Mr. Kesari does
2 things in a way that he thinks is analogous to that, thinks he's
3 in that safety zone, not to mention the fact that we don't even
4 know that he knows exactly what the FEC law and regulation is.
5 They haven't proven that.

6 You might not like his tactics, but it's not viewed as
7 a conspiracy. There's no intent to violate the law. There's no
8 intent to deceive the FEC. Those are all of the things they
9 have to prove beyond a reasonable doubt. It's more than
10 highlighted phone records and circles on pages, things that make
11 him look bad. It's what the law requires, the stuff that they
12 try to gloss over to try to make you believe that just because
13 he did some stuff that doesn't paint him in a good light he's
14 guilty of a crime, which is not the case.

15 The government tried to fill the gaps in its case by
16 relying on the most unbelievable methods and witnesses. They
17 chose to do it with Kent Sorenson. He was their choice as a
18 witness to come up here and to corroborate all of this. Maybe
19 they should have never been involved with Mr. Sorenson in the
20 first place? I'm sure a lot of them think that right now. But
21 they had a choice for the way that they were going to put on
22 their case and try to fill all of these holes in, and they
23 failed to do it beyond a reasonable doubt. They have theories,
24 and theories aren't evidence. Arguments aren't evidence.
25 That's what the jury is instructed, that's what the judge has

1 instructed you on. Their theory is not beyond a reasonable
2 doubt, and you can't -- and here is the important part. You
3 can't take away somebody's freedom, you can't send somebody away
4 based on the word of Kent Sorenson.

5 There's that jury instruction that says reasonable
6 doubt means something that you would make life's most important
7 decisions based on, and they gave you Kent Sorenson. Mr. Kesari
8 didn't do everything in this matter perfectly, and I'm not
9 trying to claim that he did; but he didn't break any laws and
10 they haven't proven beyond a reasonable doubt that he tried to
11 break the law.

12 So I'm going to do now what I said I was going to do
13 at the beginning. I'm going to ask you to hold the government
14 to their burden. I am going to ask that you not send somebody
15 away on the word of Kent Sorenson, and I'm going to ask you to
16 find Dimitri Kesari not guilty of all of the charges against
17 him.

18 Thank you very much for your service.

19 THE COURT: Here is what we're going to do. I know
20 we're plowing into lunch a little bit. We've got about 15
21 minutes left, so we're going to take a ten-minute break, get a
22 drink of water, go to the bathroom, whatever you want to do,
23 we'll hear the government's rebuttal, and then you can have
24 lunch and start deliberating.

25 We'll see you in ten minutes.

1 (Recess at 12:25 p.m., until 12:36 p.m.)

2 THE COURT: Please be seated.

3 Mr. Pilger, you may make the government's rebuttal
4 argument.

5 MR. PILGER: May it please the court.

6 Ladies and gentlemen, I'm going to talk to you about
7 some categories of things that just went on in defense
8 arguments. Some of them are completely contrary to the
9 instructions that you have heard from Judge Jarvey and
10 instructions that you will hear from Judge Jarvey, and we'll
11 talk about that a little bit. And don't worry, I only get 20
12 minutes, so I'm not going to go on and on; but these things need
13 to be addressed. Then I'm going to talk about distractions.
14 Defense talked about distractions. My wife is a psychologist.
15 She tells me there's a thing called projection where when you're
16 doing something, you project it on to someone else. That's
17 what's happening there because those arguments were full of
18 distractions. I'm going to address those. And then some of the
19 points they made actually do get to the points of this case, and
20 they just got it wrong, completely wrong, and we'll address some
21 of that.

22 So, first of all, things contrary to the instructions,
23 when Mr. Binnall in particular is talking about if there's a
24 possible doubt, you must acquit, that's not the instructions.
25 Now, like I said to you in the beginning, I want you to, you

1 have to give these men a fair trial you swore to give them, but
2 you also have to give the government a fair trial. And the
3 instructions tell you a possible doubt, that's not a reasonable
4 doubt. The court's instructions cover that.

5 The court's instructions also told you don't pull out
6 one instruction and say this is the most important one. Counsel
7 is asking you to do that. The court has told you not to do
8 that.

9 Another thing that came up was talking about
10 Mr. Kesari's mother dying. Now, I think it's -- I hesitate to
11 say it's a mature group in this room right now and some of us
12 have lost our mothers, but sympathy plays no role in what you're
13 being asked to do. You're asked to be the judges of the facts
14 of what happened. It's natural to have sympathy for people who
15 have things happen to them that are bad, sure; but the judge has
16 told you to put that aside and decide the facts.

17 Another improper thing that happened was more than one
18 counsel talked about putting these men away. There is nothing
19 in front of you except the judge's instruction which says you
20 should not consider what punishment might happen at all in this
21 case. If you find these men guilty, which you should, that
22 matter of punishment is entirely up to Judge Jarvey and you have
23 no idea whether that necessarily involves prison or not. The
24 only thing you do have an idea of is that when they get up here
25 and say don't put them away, they're putting something on you

1 that they're not allowed to do. You're not supposed to consider
2 that. That's not supposed to influence you.

3 Another thing that was improper, Mr. Kesari's counsel
4 stood here and looked at the government and talked about whether
5 the government wished they had gotten involved with Kent
6 Sorenson, and I'm about to talk about Kent Sorenson; but what he
7 knows I'm not allowed to do is to vouch for a witness, and I'm
8 not going to do that. I'm not going to get baited into doing
9 something improper; but he knows that. That's why he said that.

10 I'm going to tell you about Kent Sorenson because they
11 have completely mischaracterized his role in this case. They
12 would love for you to believe that he was the star witness.
13 They would love the fact that they spent hours cross-examining
14 him to make you think that he's the government's star witness.
15 He's not the star witness. What did I tell you when we opened
16 the case? This is an e-mail case, this is an e-mail case. What
17 did Mr. Cooney spend an hour, encroaching a little bit on my
18 time, about the e-mails in this case? He told you it showed
19 what the defendants were saying to each other at the time. You
20 got to see that. The FBI gathered that evidence and brought it
21 to you and painstakingly read it into the record for you.
22 You're the star witnesses. You saw what matters. You saw what
23 they were doing in real-time, all of them, and Kent Sorenson.

24 So when they get up here and tell you that the
25 government's star witness is Kent Sorenson, remember what I told

1 you at the beginning, Kent Sorenson is going to testify, he has
2 to testify. We've got to bring him in here and testify. But
3 you don't need to believe him unless he's corroborated, and we
4 corroborated him up and down, up and down with e-mail, with
5 phone records, with travel records. We didn't bring him in here
6 and say, hey, here is the star witness, believe this guy and the
7 game is over, defendants are guilty. No. He was one witness
8 who took the stand, testified for about an hour-and-a-half or
9 two on direct and a lot longer on cross and admitted to you that
10 he was, when he was committing these offenses, a liar and a
11 criminal. We brought that to you first. We brought that all
12 out. That was us telling you through the witness, he was that
13 man. Whether or not you believe he's completely reformed or
14 not, we don't have to go there; but what we have to bear down on
15 is the important point, which is he was a liar, he was a
16 criminal, and he was their friend. He was the kind of guy at
17 that time that they could rely on to keep a secret, to
18 participate in this scheme, to take his money quietly, to wait
19 for it when it didn't come through right when he wanted it and
20 to not expose them. But there's no honor among thieves, is
21 there? So they're all worried about each other, and you saw the
22 evidence of that.

23 Now, the defense paints this picture of Kent Sorenson,
24 Iowa State Senator, bullying these national political operatives
25 running a nationwide campaign, bullying Jesse Benton,

1 blackmailing, blackmailing Dimitri Kesari, blackmailing John
2 Tate, and they point you to this tape with Dennis Fusaro; but
3 they don't want to talk about the whole tape. They want to talk
4 about what is in there, which is maybe he should hold the check
5 as leverage to have something over Dimitri Kesari. But how did
6 that conversation start? It started with Dennis Fusaro saying,
7 I hear you're about to throw yourself on a hand grenade. And
8 Kent Sorenson explained that; but you don't have to believe Kent
9 Sorenson said that that statement happened about the hand
10 grenade. You heard it. And Kent Sorenson explained to you he
11 was thinking about coming clean. He made sense of that for you
12 in a way where nothing else makes sense. He was thinking about
13 exposing the whole thing. He was thinking about getting to a
14 point where he would have nobody to work for by just admitting,
15 yes, I got paid by the Paul Campaign, I got a check, I was going
16 to get \$8,000 a month.

17 In that context, the context so important to
18 Ms. Campbell when she wants to argue, that whole conversation
19 was about exactly what he told you, corroborated by the tape,
20 not just because he told you but because of what the tape says.
21 They have the power. They're the ones who say "F him." They're
22 the ones who say let's expose him as the money grubbing,
23 shakedown artist he is, their characterization of what Aaron
24 Dorr wrote. They're the ones with the power, and Kent Sorenson
25 on that tape is saying, well, I at least got this check, if this

1 goes -- and this is what he told you, how he explained it. It
2 makes perfect sense when you listen to that tape. At least I'll
3 have this to show I'm not the only one, you can't pin this all
4 on me, which is exactly what they're trying to do right now.

5 So, finally, Kent Sorenson, not the star witness. The
6 star witnesses are sitting right in front of me able to read
7 those e-mails, you saw them as they came in, and you'll have
8 them in your deliberations.

9 Let's talk about distractions. Somebody said
10 something about throwing up dust. How much dust do you think
11 came out of the sawmill that chopped up the tree to fill up
12 those binders? How about that for throwing up some dust? Those
13 are a total distraction. What did Deana Watts say? Printing
14 them out like that is just a stunt because she told you it's
15 insane, it's insane. But you know what, Ms. Campbell did it, so
16 let's take a look at them and think about them. Think about
17 what Mr. Hartsock told you. That volume of line items is a
18 great place to hide something you don't want the world to see.
19 And when that came out, that hurt, that really hurt. And
20 Ms. Campbell, she got back up, and her last question was, well,
21 wouldn't it be a better way to just not let it get in there at
22 all? But that was a wrong move because what happened then?
23 Because Deana Watts explained there's no way to keep it out of
24 the FEC reports. You can't take \$25,000 out of this campaign
25 without the books not balancing. Her checking account is going

1 to be off. Even for 8,000, it would be off. There's no way to
2 do this without creating false records inside the campaign,
3 which is a crime, which are going to get reported to the FEC,
4 which is a crime. So that was just a desperate move. She got
5 caught with those books.

6 Hiding things in that great volume of records is a
7 great way to hide them, even though the truth of the matter is
8 you can electronically search through them as Agent Spencer
9 Brooks did. Because you can disguise a payment through a
10 company that's doing no work and you can buy the endorsement of
11 an Iowa State Senator, which is not the crime; but it's
12 certainly something that was going to draw negative attention
13 and was certainly something after Ron Paul went on TV was going
14 to blow up his campaign if that came out, and it was certainly
15 something that was going to ruin the reputations and the income
16 and the careers of these three men, which was the most important
17 thing to them, not Ron Paul.

18 A great way to hide from the world what they were
19 doing with Kent Sorenson was to get it into the FEC records
20 under a fake name for a fake purpose because when people
21 actually search the records, they're going to search for Kent
22 Sorenson. Agent Brooks did that. Not in there. Search for
23 Grassroots Strategy. Agent Brooks did that. Not in there.

24 So when the Iowa press and the Washington Post when
25 they're poking around after Michelle Bachmann's allegations, if

1 they follow up later -- and there was follow-up, all the way
2 into 2013 -- they're never going to see what happened because
3 these guys did something with the campaign records and the FEC
4 that matters, that's material. They put together false
5 statements in a scheme to pay through a third party with Dimitri
6 Kesari in charge of the details and the other defendants
7 approving every move he made from even having dinner with his
8 friend, Kent Sorenson, to get those records to say something
9 false.

10 Now, defendants want to talk about materiality. As
11 Mr. Cooney told you, right there on the front of the form it
12 says these have to be truthful, complete, and accurate, and then
13 it references a criminal provision about lying on the forms.
14 Right there is your materiality. If you want to talk about it
15 more, sure, here is what they did. They put together a way of
16 getting those line items disguising Kent Sorenson's payments
17 into the FEC reports in a way that wouldn't be questioned, and
18 that's what happened. What is the action of the FEC? It is not
19 just first publishing the reports. You heard from Mr. Hartsock.
20 My questions were, were they filled out the way that was
21 sufficient to remain published, and he said as to each one yes.
22 That was their goal.

23 By falsifying these records in a material way that did
24 not draw the review people, who you heard Mr. Hartsock say they
25 look at every line item, would not draw their attention, they

1 ensured that those would remain on there forever concealing what
2 had happened.

3 Now, we've heard about secret laws and secret rules,
4 and so on. Complete distraction. What's going on there? I'll
5 do an analogy for you. Everyone here I'm sure has to pay taxes
6 or at least do a tax return. The IRS is not going to tell you
7 we audit returns only if we have an issue over \$50,000 or over
8 \$500. If they did that, everyone would say, okay, I can cheat
9 for \$500 or \$49,000. That's the confidential thing we're
10 talking about. And it's a complete distraction from the issue
11 in this case, which is did these three men get together in the
12 e-mails that Mr. Cooney went through with you and find a way to
13 hide forever that Kent Sorenson was being paid by the campaign?
14 And they did, they absolutely did.

15 Mr. Cortes was told this was for video. There's no
16 video. There's no video at all. The invoices coming in from
17 ICT from Mr. Izon were for production services. Whose idea was
18 that? You saw the e-mail. Dimitri, as we discussed, here is
19 the invoice for production services from a film production
20 company.

21 Mr. Sorenson wasn't doing any work for them. The best
22 they've got is he spent maybe a couple of minutes doing a robo
23 call. He might have approved some blast e-mails, and he went
24 down to South Carolina. And did he do any work? Remember that?
25 Did he roll up his sleeves? Is there any evidence of that, that

1 they sat down and did a seminar and went through bills and stuff
2 like that? No. He just went down there and told other
3 legislators -- remember his testimony? He told the other
4 legislators down there, hey, you can get on the Ron Paul gravy
5 train, too. If you endorse him, these guys will arrange payment
6 for you. That's all he did, nothing like the Bachmann Campaign,
7 nothing like the Bachmann Campaign where the undisputed evidence
8 from not just Mr. Sorenson but from their own witnesses, from
9 Mr. Polyansky, Mr. Parrish, Kent Sorenson was deeply involved in
10 the Bachmann Campaign working hard, a lot, in complete contrast
11 to this case where no work is done for ICT, where ICT does no
12 work for the campaign, totally different circumstances.

13 And if that weren't enough, you saw Mr. Polyansky get
14 up on the stand, and you saw him about swallow his tongue when I
15 asked him about how the payments came through a PAC, and that
16 has to do with another fact that you heard, which is that the
17 FBI was interviewing Mr. Parrish about the Bachmann side issues.

18 So when Mr. Kesari's counsel talks to you about ten
19 interviews, and so on, remember that, and remember that
20 Mr. Sorenson told you he was debriefed not just by the Federal
21 Government but also by the County Attorney for Polk County about
22 many things, many things, okay.

23 And then I want to talk about where the other
24 implication of that goes. They talked to you about these
25 meetings, Mr. Binnall in particular, like we're telling him what

1 to say. Well, I want to remind you of something. The actual
2 evidence in front of you, which didn't depend on Kent Sorenson,
3 but he was the witness when it came in, was that when he was
4 interviewed earlier in time close to the events, he remembered
5 John Tate being at the event, the switch event, and then he
6 forgot. And remember the exchange I had with him? Did the
7 government pull out one of these forms and say, look, you said
8 this before, you've got to keep saying it? No. He said, no,
9 that didn't happen.

10 And so when Mr. Binnall talks about how there's
11 discrepancies in the report, that just shows you how honest the
12 process was. No one forced him to stick to his story, and when
13 he changed his story, that got known to them because we made a
14 record of it, and when he was refreshed later with photographs,
15 it came back to that Tate was there.

16 Now, if we were messing with this process and if Kent
17 Sorenson were the liar that they want to cast him to be, this
18 whole presentation would look a whole lot different, wouldn't
19 it? Kent Sorenson would tell a lot better lies. He would tell
20 great lies if that is what this is about. He wouldn't talk
21 about having a brief conversation with Jesse Benton about you
22 bled for us, we'll take care of you. He would talk about a long
23 conversation out in the parking lot where no one else was around
24 and John Tate was there, too, and they all agreed exactly and
25 they talked about the check. If he were going to come in here

1 and tell you lies and sell you a story, imagine how much better
2 those lies would be. But he didn't. He came here and he told
3 you as best he could what he remembered.

4 THE COURT: Time to wrap it up.

5 MR. PILGER: I'm done?

6 THE COURT: Well, you can take another minute.

7 MR. PILGER: I will take just another minute.

8 So there's a lot more things that I would love to have
9 time to address. I don't. There's distractions. There's
10 points that were made that were wrong. Let me just focus on one
11 of the points that was made that was wrong.

12 They brought in Sonny Spanos, and they asked you to
13 believe his testimony, and what they tried to do is create the
14 impression that Jesse Benton did not talk to Kent Sorenson at
15 the event. And then what happened?

16 Well, forgive me. Strike that.

17 Sonny Spanos came in to talk about how he had been
18 paid through the campaign, and then they had evidence that the
19 FEC reported what he had done as audiovisual -- I'm sorry; the
20 campaign reports to the FEC that Spanos had been doing
21 audiovisual services. They brought him in here to get you to
22 believe that he hadn't done video services, that all he did was
23 interactive robo calls. And how did that work for them? What
24 was the truth that actually came out? What was the truth that
25 came out and crushed that distraction? It was that Mr. Spanos

1 actually did have a film production role. He had actually made
2 film for the campaign which Mr. Cooney brought out on
3 cross-examination, and he didn't have his invoices with him.

4 So this all goes back to the point that I'm going to
5 conclude with. It makes no sense for them to try and blame
6 Fernando Cortes, a guy just doing his job, using a code that
7 generated audiovisual which was not on the disapproved list like
8 consulting is. Consulting is on the disapproved list. They
9 used the code that had gone through before, before, including
10 with Mr. Spanos in December of 2011, knowing, knowing if they
11 talk about video services, that's going to get into the FEC and
12 it's not going to get taken down later when it's examined.
13 Another complete distraction.

14 So now I'll just finish with it's time for the
15 verdict. Verdict is an ancient word. It means to speak the
16 truth. It falls to you now to speak the truth of the facts of
17 this case. As Mr. Cooney and I have proved to you over the past
18 week or so, the truth is these men are all guilty as charged,
19 and we ask you to return that truth in your verdict.

20 THE COURT: Members of the jury, if you would pick up
21 your copy of instructions, turn to instruction 9 on page 18,
22 we'll finish that now.

23 (Instruction 9 was read by the court.)

24 THE COURT: The verdict forms are self-explanatory.
25 There's one for Mr. Benton there, there's one for Mr. Tate

1 there, one for Mr. Kesari there. As I said earlier in the
2 instructions, a list of the overt acts from Count 1 of the
3 indictment is appended should you wish to refer back to that.

4 So I understand lunch has been ordered for you and you
5 will be in there in just two minutes to enjoy that. While
6 you're doing that, we'll gather a copy of every exhibit that was
7 admitted into evidence to send back to you, but that doesn't
8 just happen in like two minutes or five minutes. It takes us a
9 half an hour to make sure we've got all the right ones amongst
10 this bunch of paper here.

11 Also what will come back is the original copy of the
12 jury instructions, and the verdict form in the back of this
13 binder is the one that you should use to record your verdicts.

14 When you deliberate all 12 of you must remain
15 together, meaning this: I don't know if some of you are
16 smokers, but if the court security officers takes someone out to
17 the loading dock for a cigarette or someone goes to the
18 bathroom, deliberations stop. All 12 of you must be together
19 when the case is discussed. You will set your hours of
20 deliberation. All I say is you can't deliberate past 5:30 today
21 and you can't come in before 8 o'clock tomorrow morning.

22 So, other than that, your deliberations are your
23 business. I just inform you that you'll set your hours, and
24 when you leave at the end of the evening, you'll just simply --
25 if you come back tomorrow, you'll simply inform the court

1 security officer when you're coming back because every time that
2 you're deliberating all of the lawyers and I will be available,
3 and so at the end of the day, I want to let them know when they
4 don't have to be available for the rest of the day and then they
5 do tomorrow if you come back.

6 We want you to be comfortable here. We want you to be
7 having access to your friends, family, and work, and that's why
8 you and not very many other people get to have cell phones in
9 the federal courthouse. But you'll recall from the first day of
10 trial, I told you that one of the only things that I'm aware of
11 that can impeach the integrity of a jury's verdict is if outside
12 influences are brought to bear on the jurors. That's why I said
13 don't do any research on your own and the like. It's
14 particularly important during deliberations, so important that
15 we post a court security officer outside your door during the
16 entire time that you're deliberating, not because we think
17 something bad is going to happen, but just because we want to
18 have proof that there was no outside influences brought to bear
19 on the jury. For those reasons, we separate you from your cell
20 phones while you deliberate.

21 So if you need to get word to family, I would say
22 before you start deliberating call anybody that you want to
23 call, tell them I'm going to be out of pocket for a while, and
24 if they need to get ahold of you on an emergency basis, just
25 tell them to call the federal clerk of court, the federal clerk

1 of court, and we will get a message to you instantly. It's
2 happened only a couple of times in my 28 years of being a judge,
3 but we've been able to get a message to you right away if that
4 happens. So that's the long explanation as to why no cell
5 phones during deliberations.

6 I want to emphasize that I'm not encouraging notes or
7 discouraging them, just simply reminding you there's only one
8 way to communicate with me, and that's a written note signed by
9 one or more jurors.

10 All right. So here is my least favorite part of the
11 trial, and that's excusing the alternate jurors. We absolutely
12 have to have alternates, you know, God forbid, something happens
13 to you, you get sick or somebody gets in a car wreck or
14 something like that on the way to court. You can tell how much
15 money we're spending in this courtroom every day. We have to
16 continue on. So alternate jurors are very important, and
17 they're still important even during deliberations. You know, I
18 watch the jury from time to time, and I see how attentive you
19 folks are and everybody is taking notes and paying particular
20 attention and then not to get to be a part of the deliberations
21 is a little bit of a letdown; but I want you to know that as
22 alternates, by your service you truly have lived out our United
23 States Constitution and perhaps our most tangible form of
24 self-government.

25 Mr. Mauseth and Ms. Raineri, you are the alternates.

1 So when you leave, when the jury is excused today, you can leave
2 and go home; but here is what I want you to do. I want you to
3 take your notes and your copy of the jury instructions, and I
4 don't want you to discuss this case with anyone until the clerk
5 calls you to tell you that a verdict has been reached. Here is
6 why. If anything were to happen -- and it's never happened in
7 my career, but if anything were to happen, I could bring you
8 back under those circumstances and we would start the
9 deliberations over and alternates would still be incredibly
10 important.

11 So don't talk to anybody about this case. Don't let
12 anybody see your notes or the jury instructions or anything
13 until the clerk calls you to inform you that a verdict has been
14 reached.

15 It's common after you've been with these folks for a
16 week like this that you develop friends and want to say
17 good-bye. That's fine. Just please don't say what your
18 verdicts might have been.

19 That's it. So it's time to begin the deliberations.
20 I told you in a little bit the exhibits will come back. They're
21 coming, together with the original copy of the verdict form.

22 So thank you. You can start your deliberations now.
23 Take your notebooks back with you.

24 (Jury out to deliberate at 1:10 p.m.)

25 (In open court, out of the presence of the jury.)

1 THE COURT: Please be seated.

2 All right. You know the drill. Please leave a cell
3 phone number with Ms. Walling. It's my expectation that you'll
4 be in the courtroom ten minutes after any note is identified for
5 you, whether it's a verdict or a question. The only questions
6 that we'll answer without your input are questions asking for
7 more snacks or notepads or things like that. Other than that,
8 every single thing will be identified for you, and we don't want
9 to answer those without your input so we need to know that
10 you'll be back in court in ten minutes.

11 Don't leave the courtroom without satisfying yourself
12 that Ms. Walling has the correct exhibits to send back to the
13 jury room. Our thought process is pretty simple there. If the
14 wrong exhibit goes back, I want to say that it's your fault.

15 (Laughter.)

16 THE COURT: That's it.

17 MR. PILGER: One matter, Your Honor?

18 THE COURT: Yes.

19 MR. PILGER: So it might be a glitch, maybe we
20 misheard, but in the instructions at the end, final instructions
21 on giving notes, I didn't hear the usual thing about don't tell
22 us any split, and they should probably be aware of that.

23 MR. BINNALL: It was in there.

24 THE COURT: The jury instruction says never tell me
25 how your vote on any issue stands numerically.

1 MR. PILGER: Very well, Your Honor.

2 THE COURT: It's in the last instruction.

3 Thank you.

4 We're in recess.

5 (Recess at 1:11 p.m., until 9:00 a.m., Thursday,

6 May 5, 2016.)

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